(20,690.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1907.

No. 298.

MATEO CARIÑO, PLAINTIFF IN ERROR,

vs.

THE INSULAR GOVERNMENT OF THE PHILIPPINE ISLANDS.

IN ERROR TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

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a UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Honorable Judges of the Supreme Court of the Philippine Islands, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment in a case which is in the said court before —, or some of you, wherein Mateo Cariño, of the Province of Benguet, appears as plaintiff, and the Insular Government of the Philippine Islands, as defendant, a manifest error has happened to the great damage of the said Mateo Cariño as by his complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the plaintiff aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ; so that you may have the same at Washington on the thirtieth day of April, next, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of
b the Supreme Court of the United States, the 4th day of January, in the year of our Lord one thousand nine hundred and seven.

J. E. BLANCO,
Clerk of the Supreme Court of the Philippine Islands.

The foregoing writ of error is allowed.

CHARLES A. WILLARD,
Associate Justice of the Supreme Court of the Philippine Islands.

[Stamped:] Supreme Court of the Philippines, clerk's office. Filed Jan. 4, 1907.

c THE UNITED STATES OF AMERICA, *ss:*

To the Attorney General of the Philippine Islands, Greeting:

You are hereby cited and admonished to appear at the Supreme Court of the United States, to be holden at the City of Washington on the 30th day of April, next, pursuant to a writ of error filed in the Clerk's office of the Supreme Court of the United States, wherein Mateo Cariño, of the Province of Benguet, is plaintiff in error, and the Insular Government is defendant, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected and speedy justice be done to him in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 4th day of January, in the year of our Lord one thousand nine hundred and seven.

CHARLES A. WILLARD,
Associate Justice of the Supreme Court of the Philippine Islands.

Receipt of above citation is hereby admitted and service thereof accepted this 4 day of December, 1906.

GEO. R. HARVEY,
Ass't Attorney General.

[Stamped:] Supreme Court of the Philippines, clerk's office. Filed Jan. 4, 1907.

1 UNITED STATES OF AMERICA, *Philippine Islands:*

Application for the Registration of Title.

To the Honorable Judge of the Court of Land Registration:

I Mateo Cariño, the undersigned, through my duly authorized attorney in fact, Metcalf A. Clarke, hereby apply for registration under the provisions of the Land Registration Act of the following described property, of which I am the sole owner:

1. Parcel of land without buildings situate in Ipit and Lumbas, within the jurisdiction of the Municipality of Baguio, Province of Benguet, Philippine Islands, bounded and described as follows:

Beginning at the corner of Main Street and Emerson Road a point located carefully by bearings to several permanent points and marked with a five feet iron bar driven solid into the ground mark A as per sketch on plan, thence on a bearing of S. 30 0′ E. 34.646 meters to the 2 Mile Stone on the Road Side; thence on a bearing of N. 24 50′ W. 52.20 meters to the corner mark 1; thence on a bearing of N. 66 30′ E. 17.00 meters; thence on a bearing of N. 77 30′ E. 44.00 meters mark 3; thence on a bearing of N. 9 21′ E. 16.18 meters mark 4; thence on a bearing of N. 42 0′ E. 79.60 meters mark 5; thence on a bearing of N. 78 55′ E. 51.00 meters mark 6; thence on a bearing of N. 64 18′ E. 25.00 meters mark 7; thence on a bearing of 49 13′ E. 60.00 meters mark 8; thence on a bearing of S. 54 35′ E. 29.0 meters mark 9; thence on a bearing of S. 72 40 E. 190.0 meters mark 10; thence on a bearing of S. 5 55′ E. 19.60 meters mark 11; thence on a bearing of S. 25 33′ E. 53.0 meters
2 mark 12; thence on a bearing of N. 85 40′ E. 185.0 meters mark 13; thence on a bearing of N. 30 33′ E. 120.0 meters mark 14; thence on a bearing of N. 12 18′ E. 120.0 meters mark 15; thence on a bearing of N. 7 0′ E. 94.0 meters mark 16; thence on a bearing of S. 27 50′ E. 107.10 meters mark 17; thence on a bearing of N. 46 42 E. 100.40 meters mark 18; thence on a bearing of N. 68 35 E. 188.0 meters mark 19; thence on a bearing of S. 82 24′ E. 23.50 meters mark 20; thence on a bearing of S. 54 30 E. 257.0

meters mark 21; thence on a bearing of S. 16 30′ E. 76.0 meters mark 22; thence on a bearing of S. 18 20′ W. 144.40 meters mark 23; thence on a bearing of S. 26 24′ W. 500.0 meters mark 24; thence on a bearing of S. 43 30′ W. 66.0 meters mark 25; thence on a bearing of S. 2 5′ W. 250 meters mark 26; thence on a bearing of S. 36 0′ W. 41.40 meters mark 27; thence on a bearing of S. 43 15′ W. 296 meters mark 28; thence on a bearing of S. 51 47′ W. 206.0 meters mark 29; thence on a bearing of S. 38 51′ W. 68.0 meters mark 30; thence on a bearing of S. 61 56′ W. 253.0 meters mark 31; thence on a bearing of N. 66 17′ W. 350 meters mark 32; thence on a bearing of N. 53 34′ W. 175.0 meters† mark 33; thence on a bearing of N. 48 27′ W. 178.0 meters mark 34; thence on a bearing of N. 44 16′ W. 76.0 meters mark 35; thence on a bearing of N. 43 0 W. 170.0 meters mark 36; thence on a bearing of N. 49 30′ E. 270.0 meters mark 37; thence on a bearing of N. 57 28′ E. meters† degrees 48′† 200.0 mark 38; thence on a bearing of N. 59 E. 110.0 meters mark 39; thence on a bearing of N. 16 15′ W. 52.60 meters mark 40; thence on a bearing of N. 4 0′ E. 200.0 meters to the starting point 0; containing a superficial area of 146 hectares and 74 areas, as shown by the plan attached.

2. That the value of the said described property, according
3 to the last real estate assessment, is $1680.00 U. S. Currency.

3. That so far as I know there are no liens or encumbrances of any kind upon said property, or any person or persons claiming or possessing an interest therein.

4. I acquired the title to said property through inheritance from my forefathers, who have been in possession of the same in good faith for four decades last past.

That lacking a written title to such property and needing some proof of ownership I availed myself of the privileges and dispositions of the mortgage law and applied to the Court of First Instance of the 3rd Judicial District, asking a possessory information for such land, which was granted to me by the Court on February 22, 1901.

5. That said property is now actually occupied by the undersigned Mateo Cariño.

6. The name and address of the occupant of a portion of the adjoining land is Sr. Piraso, Baguio, Benguet. I have not been able to ascertain the barrio in which said Piraso lives, and, furthermore, I am informed the Igorotes have but one name, as in the present case.

7. The name and address of the adjoining owner of part of the property applied for is Piraso, Baguio, Benguet.

8. That I am married, the name of my wife being Bayora Ortez. My name, age, residence and address are as follows: Mateo Cariño,
50 years of age more or less, Baguio, Benguet, Philippine Islands.

4 That the name, age and residence of my attorney in fact etcalf†

[† In pencil in copy.]

are: M A. Clarke, 35 years of age, residing at No. 2 Callo Padre Faura, Ermita; post office address No. 2 Escolta, Manila, Philippine Islands. That he is married, the name of his wife being Maria Basaro; Manila, June 22. 1903.

(Signed) METCALF A. CLARKE.

List of Documents Accompanying the Application.

1. Power of attorney executed by Don Mateo Cariño in favor of Metcalf A. Clarke, May 23, 1903.
2. A certified copy of the possessory information proceeding had by Don Mateo Cariño for a tract of land situate in Ipit and Lumbas, jurisdiction of the Pueblo of Baguio, capital of the Province of Benguet.
3. The plan of the property of Mateo Cariño referred to in the application.

UNITED STATES OF AMERICA,
PHILIPPINE ISLANDS, *Province or City of* ——, *ss:*

I certify that the above named —— —— personally appeared before me and that to my knowledge he is the person who signed the foregoing application and declared, under oath, that the matters stated therein of his own knowledge are true, and that as to matters told on information and belief, that he believes them to be true. He exhibited to me his cedula certificate issued in Manila, May 12, 1903, No. 150028.

(Signed) J. R. WILSON,
Clerk of the Court of Land Registration.

[Seal which reads: Court of Land Registration, Philippine Islands.]

5 UNITED STATES OF AMERICA, *Philippine Islands:*

Expediente No. 87.

MATEO CARIÑO, Applicant.

petitions†

The undersigned respectfully [asks]* the Court of Land Registration to admit the following amendments to the map in the above entitled expediente:

1st. From the mile stone monument N. 24° 50′ W. a distance of 52.20 met-s to the point of beginning, "0," which was not inserted in the map.

2nd. The course of the line 4-5 which appears in the map as E. 42° 0′ E., should be N. 42° 0′ E.

Manila, Oct. 29, 1903.†

D. PICTON DAVIES, *Surveyor.*

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

CITY OF MANILA, 29 *of Oct.*, 1903.†

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

I, D. Picton Davies, after being duly sworn, declare that the measurements contained in the preceding certification are exact and true and conform to the measurements which I personally took on the lands.

D. PICTON DAVIES,
Qualified Surveyor.

Subscribed and sworn to before me this 29th day of October, 1903, the affiant exhibited no personal cedula being exempt on account of age.

J. R. WILSON,
Clerk of the Court of Land Registration of the Philippine Islands.

[Seal of the Court of Land Registration.]

6 UNITED STATES OF AMERICA, *Philippine Islands:*

Court of Land Registration.

Expediente No. 87.

MATEO CARIÑO, by His Attorney in Fact, METCALF A. CLARKE.

The applicant, by his undersigned attorney in fact, appears before this Honorable Court and respectfully [asks]* prays† that the following amendments to the original application in the above entitled expediente be admitted:

1. The lineal measure of the line 16-17 is 107.60 mts.
2. The lineal measure of the line 23-24 is 500 mts.
3. The area is 146 Hect. 74.25 Areas.

Manila, 25th November, 1903.

METCALF A. CLARKE.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

25th November, 1903. I hereby certify that Metcalf A. Clarke, who has appeared before me, is known to *be* to be the person who signed the foregoing application, having stated under oath that what is contained therein is true of his own knowledge, and as to what is stated therein on information and belief, he believes to be

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

true. The applicant exhibited personal cedula No. 150028, issued at Manila 12th May, 1903.

JOSÉ MORENO LACALLE,
Deputy† [*Auxilliary*]* *Clerk of the Court of Land Registration of the Philippine Islands and ex-Officio Notary Public.*

[Seal of the Court of Land Registration of the Philippine Islands.]

7 UNITED STATES OF AMERICA, *Philippine Islands:*

Court of Land Registration.

I hereby certify that the foregoing is a true and faithful copy of the application, technical description and measurements L. D. Nos. 675 and 827 attached to Expediente No. 87 of Mateo Cariño; and upon the petition of Mr. Haussermann, attorney, I issue the present certificate at Manila on the 12th May, 1905.

J. R. WILSON,
Clerk of the Court.

After due process and notice, testimony was taken and hearing had in said application, and on the 4th day of March, 1904, a judgment was entered by said Court of Land Registration approving such petition and directing and ordering the registration of the title to the land above described and as prayed for therein. The said judgment was in the following words and figures:

8 UNITED STATES OF AMERICA, *Philippine Islands:*

Court of Land Registration.

In the Matter of Expediente No. 87. MATEO CARIÑO, Applicant.

Decision of the Court.

The applicant in this case, Mateo Cariño, seeks registration of some three hundred seventy (370) acres of land, situate in the Municipality of Baguio, Province of Benguet, basing his title upon prescription and upon possessory information proceedings taken in the Court of First Instance, Province of La Union, in 1901. The application is contested by the Government of the Philippine Islands and by the Military authorities of the United States on the ground that the land still belongs to the public domain, the claim being that title thereto has never legally vested in the applicant. A portion of the land in question was reserved by the President of the United States as a military reservation, under date of October 10, 1903.

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

Upon the hearing evidence was offered showing that the land in controversy was first fenced and occupied by the grand-father of the applicant, who used it to pasture live-stock and in a small way for raising camotes and palay. Upon his death the land passed to the father of the applicant and then to the applicant, the usual Igorrote ceremonies attendant upon such transmission having been observed. The applicant and his brother, the latter of whom gave his age as fifty (50) years, testified that their grandfather died before
9 their birth, which testimony finds corroboration in the record.

The father of the applicant died something over twenty years ago, since which time the applicant has used the land for grazing purposes. It is the general understanding among the inhabitants of Baguio and vicinity that the land in question belongs to the applicant. While there is some intimation in the record that the land belongs, or belonged, to the Cariño family as Igorrote chieftains, rather than as individual owners, the testimony is quite clear that they claimed it as their personal holding and not in trust for others. With the great area of unoccupied public domain surrounding them, freely available to the general public, it is extremely improbable that the Cariño family would have gone to the trouble and expense of fencing and maintaining this particular tract, except with the idea of devoting it to their own uses.

It appears that up to a time subsequent to the American occupation (1900), the old trail crossing the land was closed at either end by a gate or bars, and that the fence, which then surrounded the property, was in good condition. Shortly afterward the new Dagupan-Baguio wagon-road was built through the land and the applicant was told or became impressed with the idea that he could not fence across it. He testified that a fence which he did build across such road was taken away. About the same time or earlier most of the cattle upon the land died of rinderpest and the others were taken away. No effort, apparently, has been made to keep the fence in repair since that time, although the applicant testified that he still has a few head of horses grazing there.

No written title to the land was ever issued to the applicant or his predecessors in interest by the Spanish Government. It is in evidence, however, that the applicant made an effort to secure
10 a written title to the property under the provisions of the Royal Decree of February 13, 1894, having filed a petition with the Governor of the Province, to that end, and paying a fee therefor. Nothing whatever appears to have been heard of the petition, although the applicant was assured that no one could take the land from him.

In 1901 the applicant took out a possessory information title in the Court of First Instance of La Union Province, under the provisions of the Mortgage Law. In fact he appears to have done what he could, considering all the circumstances, to assert and maintain his rights in the property. While there are conflicts in the evidence, they involve minor points and are explained, in great measure, by the fact that the declarations of most of the witnesses passed through two interpretations. The following facts may be said to be clearly established by the record:

First. That the land in controversy was fenced and occupied by the grandfather of the applicant over fifty (50) years ago, and was used successively by him, by the father of the applicant and by the applicant as pasture for live-stock and formerly for raising, in a small way, camotes and palay.

Second. That the father of the applicant died over twenty (20) years ago, transmitting the property to his son, the applicant, with the formalities and ceremonies customary to the Igorrotes in such cases.

Third. That the land was claimed and used by the Cariño family as individual owners and not in trust for the people as chieftains, the fact of such individual ownership being generally understood and recognized among the inhabitants of Baguio and vicinity.

Fourth. That the applicant maintained the fence surrounding the property until some time in 1900, when, by reason of
11 the death of most of his cattle from rinderpest and the opening of a public road through the land, such fence was no longer repaired; a few horses, however, are still pastured upon the property.

Fifth. That the applicant endeavored to secure a written title to the property under the Royal Decree of February 13, 1894, but through no default upon his part such title was not issued.

Sixth. The applicant took out a possessory information title to the property under the Mortgage Law in March, 1901.

Seventh. That no formal concession of the property to the applicant or his predecessors in interest, was ever made by the Spanish Government.

The use and occupation of the property for something over forty-four years preceding American occupation having been established, the only question in the case is whether such occupation vested title in the occupants as against the Spanish Government. It is apparently conceded by all parties that under the laws of Spain title can be acquired against the State by prescription. The Supreme Court of Spain, in the case of Francisco Aragan Gonzalez, April 16, 1881, states as follows: "Whereas Law VII, Title 29, Partido 3, erroneously cited in the sixth ground of the appeal, is not applicable, nor could it have been infringed by the decision since amongst other things declared by said Law as not subject to prescription there is no mention of real property belonging to the State, which, as a legal personality, is subject to the prescriptions of the common law, and it is not lawful to attribute to it exceptions and privileges that are not granted it by law." (See also Sanchez Roman, Derecho Civil, Volume 3, Page 256.)

12 If the law of Spain governing prescription of State lands was applicable to the Philippines, and such law was not modified in essential particulars as regards the land in question, it is evident that title thereto vested in the Cariño family prior to the change of sovereignty. Such authorities as the Court has been able to examine indicate that the law of Spain, in the matter of prescription, did apply to the Philippine Islands.

Law XIV, "Recopilacion de Indias," cited by the Military Government, wherein is expressed the will of the Spanish Crown as regards its colonial possessions, provides that taxes shall be collected from those having good titles, apparently meaning written titles, "as also such as hold by a just prescription." The various Royal Decrees issued by Spain affecting lands in the Philippines, apparently recognized, also, the right to acquire lands by prescription as against the State. Practically all of them provide different periods within which such prescriptions shall be effective.

Section 1932 of the Civil Code, provides that "rights and actions shall extinguish by prescription to the prejudice of all kinds of persons, including judicial persons, in the forms prescribed by law." Reading this section in the light of Spanish law and the decisions of its Courts, it is not believed it was intended to exclude the State from the effects of this prescription. The Supreme Court of Spain, in the case already cited, speaks of the State as a "legal personality," subject to the provisions of the common law as regards prescription. The Code makes no express exception of the State, which would presum-tively leave the common law applicable. That such law is applicable to the Philippines and that Crown lands in the Islands are subject to prescription, was expressly recognized in the Royal Decree of February 13, 1894. The latter part of Sec. 13 21 of such decree provides that "persons in possession not included in the provisions of this chapter, can acquire prescriptive title to alienable crown lands only according to the common law." It appears from the commentators that this period, as against the State, is thirty years. (Sanchez Roman, Volume 3, Page 263. Ley 7, Title 29, Partido 3.)

Prescription, in its effect against the former owner of the land, operates as a grant, and once having applied the title becomes absolute in the adverse holder. Sanchez Roman, Vol. 3, Page 262, states that "solely by the passage of the time fixed in each case by law, there is a conclusive presumption of abandonment upon the part of the proprietor and a change of ownership in favor of the adverse holder."

The American and English Encyclopedia of Law, Volume 1, Page 883, referring to adverse possession says: "By adverse possession of land for the statutory period of limitations, the adverse holder acquires a title in fee simple which is as perfect as a title by deed; its legal effect is not only to bar the remedy of the owner of the paper title, but to divest the estate and vest it in the party holding adversely for the required period of time, so that he may maintain an action of ejectment for the recovery of the land even as against the holder of the paper title who has ousted him."

If the above construction of the law be correct, then the use and occupation of the land in controversy for forty-four years by the applicant and his predecessors in interest, vested absolute title thereto in them. It is contended by the defendants, however, that whatever rights might have accrued to the Cariños in this regard, were lost through failure upon their part to secure composition of title under

the Royal Decree of June, 1880, or to secure a possessory
14 information title under the Decree of February 13, 1894.
The Court does not so construe the decrees in question. The father and grandfather of the applicant had occupied the land in question for over twenty years previous to June 25, 1880. If the fact of fencing and using the land as a pasture and making small plantings of camotes and palay thereon could be construed as "cultivation" of the land, within the meaning of Article 5 of the Decree, then title vested in them without further. All persons coming within the provisions of Articles 4 and 5 were considered "owners for all legal purposes." The regulations do not appear to contemplate a "composition of title" upon their part; in fact Article 6 expressly excludes them when prescribing the procedure to be followed by other classes of occupants in securing title. If an attempt had been made to sell the lands of persons included within Articles 4 and 5, it would have been a sufficient defense to show that they were within the provisions of such articles. On the supposition, however, that the lands were not cultivated within the meaning of the law, and that the Cariño family might have secured composition of title but neglected to do so, the Court finds nothing in the decree stopping the ordinary running of the prescription period. It is provided by Article 8, that as to all those persons who might profit by the act but failed to do so, the State would reassert its title to the property and proceed to its sale by public action.

What the decree in question did (and in this it was similar to others), was to hold out special inducements to occupants of public lands that they might be persuaded to secure a record title for their holdings. It was a special modification of the prescriptive period in favor of the occupants. As an added spur it was provided that as
to all those coming within the conditions who neglected to
15 take out title, the State would reassert its right and sell the
property. This was not a repeal of the law permitting title to be acquired by prescription, as is clearly evidenced by the last paragraph of Article 21, Decree of February 13, 1894, already quoted. It meant simply that as to such lands, exempt for a time from the usual limitations, the State would again be free to exercise its rights.

As an illustration, suppose the Cariño family, on the date in question (June 1900), had been in possession of the lands for twenty-six years, without cultivation. Notwithstanding that this occupation would not have given them title by prescription, they could secure composition of title under paragraph 6, Article 6 of the decree. Failing to do this within the time and in the manner provided, the property became once more subject to sale or other disposition by the Government. Under the illustration there can be no doubt whatever but that the Government, had it so desired, would have had a right to sell the Cariño holding in 1882, and subsequently until title vested in the occupants by regular prescription. The property was not sold, however, and the title vested by prescription in due course.

Under this view of the law it is not necessary to consider the effect

of the decree of February 13, 1894, nor of the possessory information proceeding instituted in 1901, the title at that time having prescribed in favor of the Cariños. It was desirable, of course, that the applicant get his property of record, which was the principal object of possessory proceedings.

It was the policy of Spain to encourage the occupation and cultivation of public land and to induce the occupants to make
16 their title a matter of record. It is the express policy of the present Government to respect the rights of all natives of the Islands who are in active use and occupation of lands and who have spent time and effort thereon, whether they hold a record title to such lands or not. The provisions of Chapter 6, Act 926, Philippine Commission, establish the most liberal provisions to protect the interests of the actual occupants and possessors of land.

The objections filed in this case by the Government of the Philippine Islands and by the Military Authorities of the United States, are disallowed, and registration decreed in favor of the applicant for the land described in the application.

The costs will be for the account of the respective parties incurring same.

[SELLO.] D. R. WILLIAMS.
(Firmado.)

Es cópia verdadera de que certifico:
[SEAL.] J. R. WILSON,
Escribano del Tribunal.

17 In these proceedings the Government of the Philippine Islands and the Government of the United States of America, by their respective representatives, appeared as adverse claimants. It was stipulated by and between the counsel of the respective parties and with the consent of the Court that the proceedings in this cause should be conducted in the English language.

On the 30th day of March, 1904, the Government of the Philippine Islands and the Government of the United States of America, severally entered and perfected an appeal to the Court of First Instance of the Province of Benguet, and on the 26th day of April, 1904, said appeal was duly docketed in said Court. The said appeal was in the following words and figures:

18 UNITED STATES OF AMERICA, *Philippine Islands:*

In the Co-rt of Land Registration of the Philippines.

In the Matter Concerning the Petition of MATEO CARIÑO for the Registration of á Piece of Land Situated in the Town of Baguio of the Province of Benguet.

The Acting Attorney General in behalf of the Government of the Philippine Islands and also in behalf of the Commanding General of the Division of the Philippines, as representative of the United States of America, appears before this Honorable Court and states:—

That he appeals to the Court of First Instance of the Province of Benguet, District of the Mountains, from the decision rendered by this Honorable Court in the matter above mentioned whereby the opposition formulated by the Government of these Islands and by the Military authorities of the United States are denied, and the registration of the land in question in favor of the petitioner is granted; and asks that the Court order that there be issued in his favor a certified copy of the petition and the documents accompanying the same as also the evidence presented and the decision rendered with the object of presenting the same before the Court of 1st Instance.

Manila March 28th, 1904.

(Sgd.) GREGORIO ARANETA,
Acting Attorney General.

We are hereby notified of the filing of the above petition and acknowledge receipt of copy of the same.

(Sgd.) COUDERT BROTHERS,
Attorneys for the Petitioner.

19 On the 9th day of May, 1904, the Government of the United States of America filed its answer to the foregoing application, as follows:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of First Instance of Benguet Province.

In re Application of MATEO CARIÑO to Register Title to Land Situated in Baguio, Benguet Province, P. I.

Answer.

And now comes the Acting Attorney General, Special Attorney for the United States in the above entitled action, and as an answer to the petition filed in this cause.

I.

(*a*) Admits the allegations contained in paragraphs 2 and 8 of said petition;

(*b*) Denies each and every allegation contained in paragraphs 3, 4 and 5;

20 (*c*) And as to the allegations contained in paragraphs 1, 6 and 7, states that he has no knowledge or information sufficient to enable him to [from]* a belief as to their truth or falsity, and he therefore denies the same. form†

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

II.

And as a further and separate answer the undersigned Attorney of The United States says that on the 10th day of October, 1903, the property described in the petition herein was property belonging to the public domain, and that on the said 10th day of October, 1903, the President of the United States did reserve for military purposes the following described property situated in Baguio, Benguet province, P. I.:

"Beginning at a stone monument 20 feet North of the center of the Baguio and Dagupan Wagon Road, about two miles from Baguio, where an old trail to the sawmill leaves the road; thence North 55° East, for a distance of 527 feet, to stone monument; thence North 9° West, for a distance of 729 feet, to stone monument; thence North 71° 3′ East, for a distance of 2,324.3 feet, to stone monument; thence North 59° East, for a distance of 623 feet, to stone monument; thence South 45° 53′ East for a distance of 2,679.6 feet, to stone monument; thence North 73° 53′ East, for a distance of 365.6 feet; thence South 4° West; for a distance of 4,850 feet, to stone monument; thence West, 2,305 feet, to stone wagon† monument 20 feet East of center of the Baguio and Dagupan Road; thence Northerly, following the sinuosities of the Baguio and Dagupan Wagon Road, 20 feet East of center of same, to stone at point of beginning. Area, 535.63 acres, more or less," a part of which said property lies within the land described in the petition for registration filed herein.†

Wherefore, the undersigned attorney on behalf of the United States prays that registration of that part of the property
21 described in the petition which is within the bounds of the property reserved for military purposes of the United States be denied.

(S'g'd) GREGORIO ARANETA,
Special Attorney for the United States.

On said 9th day of May, 1904, the Government of the Philippine Islands filed its answer to the foregoing application, as follows:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of First Instance of Benguet Province.

In re Application of MATEO CARIÑO to Register Title to Land Situated in Baguio, Benguet Province, P. I.

Answer.

And now comes the acting attorney General, attorney for the Government of the Philippine Islands, in the above entitled action, and as an answer to the petition filed in this cause;

[† In pencil in copy.]

I.

(*a*) Admits the allegations contained in paragraphs 2 and 8 of said petition;

(*b*) Denies each and every allegation contained in paragraphs 3, 4 and 5;

(*c*) And as to the allegations contained in paragraphs 1, 6 and 7, states that he has no knowledge or information sufficient to enable him to form a belief as to their truth or falsity, and he therefore denies the same.

II.

And as a further and separate defense the undersigned at-
22 torney in behalf of The Government of the Philippine Islands says that the property described in the petition filed herein is land belonging to the public domain for which no grant or deed has been made to the petitioners or to any other person, and no confirmation of the possession of the petitioners or any other person has been made as against the said government.

Wherefore, the undersigned on behalf of the Government of the Philippine Islands prays that registration of the said property be denied.

GREGORIO ARANETA,
Acting Attorney General.

Said cause came on for trial *de novo* before the Court of First Instance of the Province of Benguet on the 24th day of May, 1904, and on said date the applicant asked leave of the Court to file the following as a reply to the answer filed in behalf of the Government of the United States of America:

(Title of Court and Cause.)

Now comes the applicant, by his counsel, and for reply to the answer filed herein, for and in behalf of the United States of America.

I.

Admits that a part of the land described in the petition herein is within the boundaries of that certain tract of land described in the order of the President of the United States, dated October 10, 1903, relating to the reservation of a certain tract for military purposes.

23 II.

(*a*) For a second and further ground of reply this Applicant alleges that on the 10th day of December, 1898, the land described in the petition was not a part of the public domain of the Kingdom of Spain and did not, by the Treaty of Peace of said date, become a part of the public domain of the United States of America or of the Philippines, but said land for the time immemorial has been and is now a private property.

(*b*) That the Order of the President of the United States dated October 10th, 1903, reserving certain tracts of land for military purposes in so far as the same affects that part of the land described in the petition within the boundaries of the tract of land described in said order is void and of no force and effect for the reason that the same is a violation of the Treaty of Peace of December 10th, 1898, made and entered into by and between the Kingdom of Spain and the United States of America, and contrary to the Act of Congress of July 1st, 1902, entitled: "An Act temporarily to provide for the Administration of the affairs of the Civil Government in the Philippine Islands, and for other purposes," in that said order attempted to take private property for public purposes† without compensation, and in the absence of condemnation proceedings.

COUDERT BROTHERS,
JOHN W. HAUSSERMANN,
CHAS. C. COHN,
Att'ys for Applicant.

This is to certify that on this 24th day of May, 1904, at 11 o'clock a. m., there was received at this office the foregoing document.

WM. M. BROWER, *Clerk.*

Applicant† ed†
24 ∧Also request[s]* permission to file as a reply to the answer *af* the Government of the Philippine Islands filed in this cause on the 9th day of May, 1904, the following:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of First Instance of the Province of Benguet.

In re Application of MATEO CARIÑO to Register Title to Land.

Reply.

I.

Now comes the Applicant by his Counsel and for reply to the Answer of the Government of the Philippine Islands, filed herein, denies that the land described in the application or any part thereof, is a part of the public domain.

II.

Said applicant alleges that the land described in the petition and the whole thereof has been from time immemorial, private property, and is now the property of the Applicant.

COUDERT BROTHERS,
JOHN W. HAUSSERMANN,
CHAS. C. COHN,
Att'ys for Applicant.

[*Letter enclosed in brackets erased in copy.]
[†In pencil in copy.]

This is to certify that on this 23d day of May, 1904, at 11 o'clock a. m., there was received at this office the foregoing document.

WM. M. BROWER, *Clerk*,
By LUCIO ALMAZAN, *Ass't.*

Mr. BASSETT: I object to the filing of these replies as improper; Act 190 provides what pleadings shall be filed in any case, and in that Act no provision is made for the filing of a reply, except by amendment to the complaint.

Objection is sustained by the Court, to which the Applicant excepts, and an exception is granted by the Court.

The Applicant asks leave to incorporate the matter contained in each of the above so called repl[y]ies† in a supplementary petition, in the nature of an amendment to the original application filed herein: which amendment to the suplemental petition is as follows:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of Firts Instance of the Province of Benguet.

In re Application of MATEO CARIÑO to Register Title to Land.

Now comes the applicant by his counsel, and as a supplemental petition in the nature of an amendment to his original application, states:

I.

Applicant admits that part of the answer of the United States of America filed in this cause, which alleges that a part of the land described in the petition herein, is within the boundaries of that certain tract of land described in the Order of the President of the United States, dated October 10, 1903, relating to the reservation of a certain tract of land for military purposes.

26

II.

(*a*) Applicant further states and alleges that on the 10th day of December, A. D., 1898, the land described in the petition was not a part of the public domain of the Kingdom of Spain, and did not, by the Treaty of Peace of said date, become a part of the public domain of the United States of America of the Philippines, but that said land, from time immemorial has been and is now private property.

(*b*) That the Order of the President of the United States, dated October 10, 1903, referred to by the Government of the United States of America, in its answer filed in this cause, in so far as the same affects that part of the land described in the petition herein, within the boundaries of that certain tract of land, described in said Order is void and of no effect, for the reason that the same is in violation

[*Letter enclosed in brackets erased in copy.]
[†In pencil in copy.]

of the Treaty of Peace of December 10, 1898, made and entered into the Kingdom of Spain and†
by and between ∧ the United States of America, and contrary to and in violation of an Act of Congress of July 1st, 1902, entitled "An Act temporarily to provide for the administration of the affairs of Civil Government in the Philippine Islands, and for other purposes," in that said order attempts to take private property for public purposes without compensation, and in the absence of condemnation proceedings.

COUDERT BROTHERS,
JOHN W. HAUSSERMANN,
CHAS. C. COHN,
Att'ys for Applicant.

This is to certify that on this 24th day of May, 1904, at 11 o'clock, a. m., there was received at this office the foregoing document.

WM. M. BROWER, *Clerk,*
By LUCIO ALUGAN, *Assistant.*

27 Applicant also herewith asks permission to file a supplementary petition in the nature of an amendment to the answer filed for and in behalf of the Government of the Philippine Islands, in this cause, on the 9th day of May, 1904, which supplemental petition in the nature of amendment, is as follows:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of First Instance of the Province of Benguet.

In re Application of MATEO CARIÑO to Register Title to Land.

I.

Now comes the applicant, by his counsel, and for a supplemental petition in the nature of an amendment, in reply to the answer filed on the part of the Government of the Philippine Islands, denies that the land described in the application, or any part thereof, is a part of the public domain.

II.

Said applicant alleges that the land described in the petition and the whole thereof, has been from time im-emorial, private property and is now the property of the Applicant.

COUDERT BROTHERS,
JOHN W. HAUSSERMANN,
CHAS. C. COHN,
Att'ys for Applicant.

[† In pencil in copy.]

This is to certify that on 24 day May, 1904, at [on]* 11 a. m., there was received in this offs. the above application.†

NOTA.—Hago constar que hoy veinticuatro de Mayo de mil novecientо y cuatro á las once de la mañana, se ha recibido en esta Escribanía la precedente aplicacion de que doy fe.

WM. M. BROWER, [*Escribano,*]*
Clerk,†

By†
[Por]* JUCIO ALUGAN, [*Delegado,*]*
Assistant Deputy.†

28 Comes now the Attorney General and presents the following:

UNITED STATES OF AMERICA, *Philippine Islands:*

In the Court of First Instance of the Province of Benguet.

In the Matter of the Application of MATEO CARIÑO for the Registration of Certain Lands.

Motion.

Comes now the Acting Attorney General, Special Attorney for the United States, and moves this Honorable Court to strike from the supplementary complaint of the petitioner, the following: That of paragraph (*a*) of Section II contained between the words "and did not" in the third line of said paragraph, and all of paragraph (*b*) of Section II of said supplemental petition, because the said parts of said petition are statements of conclusions of law.

GREGORIO ARANETA,
Special Attorney for the United States,
By BASSET, *Assistant Attorney.*

The COURT: Motion to strike is overruled.
Exception†
[Objection]* granted to the United States and Philippine Islands.
Mr. HAUSSERMANN: If you please, we desire to avail ourselves of that part of Section 4 of Act 496, which requires that all competent testimony which has been taken in writing before the Court of Land Registration, be used in the trial of the Court of First
29 Instance; we desire the testimony to be our case.
Mr. BASSETT: If your Honor please, I would like to suggest that your Honor will have to read this testimony for the purpose of knowing our objections to the testimony. I would suggest, therefore, that the testimony be read in Court, as there are certain questions which I think are incompetent and which I wish to object

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

way†
to on that ground; I would like to have it read the same [was]* as a deposition so that objections may be entered.

Mr. HAUSSERMANN: If your Honor please, we deny that the Counsel for the Government, at this time, can interpose any objection to any question. When this trial was held in the Court of Land Registration, both the Government of the United States and the Philippine Islands were represented by Counsel, and questions were asked and not objected to and answers were made, and under the provisions of the Land Registration Act, that testimony may be used at the trial of this cause, and we take it that any objections should have been made at the trial below.

Mr. HAUSSERMANN: If the Court please, we desire to say that this matter was taken up by me with the Acting Attorney General, and it was agreed by us verbally (not expecting that this action would take any technical phase at all) that the testimony which was introduced in the Court of Land Registration would be used as testimony up here, with the reservation that either of us may add to it, if we desire.

We desire to offer in evidence the testimony of Mateo Cariño taken at the trial of this cause before the Court of Land Jurisdiction which appears on pages from 30 to 41 inclusive; also testimony of John F. Reavis, taken in the same cause at the same trial, before the same court, which appears on pages from 42 to 45 inclusive of the record; also the testimony of Lorenzo Larena, which appears on pages 46 to 50 inclusive; also the testimony of H. P. Whitmarsh, which appears, commencing at bottom of page 50 to and including the upper half of page 56 of the record; also testimony of Igorrote Binoan, which appears at the bottom of page 56, to and including page 57 of the record; also testimony of Francesca Belancio, commencing at bottom of page 57, to and including the upper half of page 60 of the record; also testimony of witness Nelse Peterson which is recorded, commencing at the bottom of page 60, to and including the upper portion of page 62 of the record; also testimony of Igorrote Piraso, commencing at the middle of page 62 and including page 63 of the record. Also testimony of E. L. Pulver, commencing at the bottom of page 78 to and including page 82 of the record. Also testimony of C. L. Simson, commencing at page 83, to and including the upper portion of page 84 of the record; also testimony of M. A. Clarke, commencing at the bottom of page 84 to and including the upper portion of page 89 of the record; also testimony of Mateo Cariño recorded commencing at the bottom of page 89 to and including page 96; also testimony of Juan Cariño, recorded on page 9 to and inclusive of page 100.

30

Also testimony of Igorrote Oyaman com. at p. 64 to & including upper part of p. 74 of the record.†

I desire to state, professionally, that in a conference with Judge Araneta, the Acting Attorney General, of the Philippine Islands,

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

it was agreed by and between Judge Araneta, acting for and in behalf of the Government of the United States and the Government of the Philippine Islands, and I, acting for the applicant, that all the testimony taken at the trial before the Land Registration court, and all the papers contained in the Record of the said court,
31 will be used and submitted to the Court of First Instance, as evidence in said case, each of said parties reserving the right to introduce any additional evidence, in event either of said parties desire to do so.

Mr. BASSETT: I shall offer no objection to the admission of the testimony in view of the agreement that has been entered into by the Acting Attorney General.

The testimony was presented and admitted, transcribed and copied by order of this Court, because of the mechanical imperfections in the depositions received from the Court of Land Registration, the same being in an indistinct and imperfect carbon duplicate, is as follows, viz:

Testimony of Mateo Cariño, Appearing on Pages 30 *to* 41, *Inclusive.*

MATEO CARIÑO, the Applicant, presented as witness by Mr. Haussermann, after being duly sworn, testified as follows:

Q. Where do you live?
A. Baguio.
Q. How long have you lived in the Province of Benguet?
A. Cannot State how many years.
Q. Where were you born?
A. Tublay, Province of Benguet.
lived†
Q. Have you ∧ in the Province of Benguet all your live?
A. Yes.
Q. Where was your father born?
A. Trinidad, Benguet.
Q. Did your father live during the whole of his live in Benguet?
A. Yes.
Q. Is your father dead now?
A. Yes.
32 Q. Where did he die?
A. Tublay.
Q. Do you know when did he died?
A. When the Spanish Commander Oraa was in charge of the Province, cannot remember haw many years ago.
Q. Haw large were you when your father died?
A. I was grown and married.
Q. Where was your grandfather born?
A. In the barrio of Lubas, jurisdiction of Baguio.
Q. Do you know where he died?
A. In the barrio of Lubas.
Q. Was he buried in Lubas?

[† In pencil in copy.]

A. No; he was buried in the neighborhood of Baguio.

Q. Do you know whether or nor he was burried on the land in question?

A. He was not burried on this land.

Q. Did your father live upon the land which you are attempting to register?

A. My grandfather lived on this land.

Q. Are you the owner of that land?

A. Yes.

Q. How long have you owned or possessed this land?

A. In the time of Oraa I inherited this land from my father.

Q. How long was your father the owner and in possession of that land?

A. I cannot state how many years—my father told me never to let this land go but to hold it always.

Q. Did your father own this land for more than thirty years?

A. I do not know—he was in possession a long time, because he lived on the land and built his home there.

Q. Did your grandfather own that land, and was he in possession during his live time?

33 A. I do not know, but I inherited this land from my father.

Q. During your father's lifetime did he make any statement as to how he came to own the land?

A. My father told me to hold this land because it was an inheritance from his father.

Q. Is that land enclosed—is there a fence around it?

A. It is fenced.

Q. Was it fenced when you received it from your father?

A. Yes.

Q. Did your father have cattle upon that land during his life time?

A. Yes; and I inherited some cattle from him.

Q. Did your father have carabao upon that land?

A. No; horses and cattle.

Q. Did sweet potatoes grow upon part of that land?

A. Part of the land near the river was planted with camotes (potatoes).

Q. When was the road that now runs through the land put there?

A. In the time of Mr. Whitmarsh.

Q. After the Americans came here and before the road was put there did you post any notice on the land showing that you claimed it as owner?

A. Yes; I placed some posts and sent to San Fernando to arrange for the registration of the land.

Q. When did you put those notices on the posts? Was that done before the military came here?

A. Yes; before the arrival of the American troops I placed written notice on the property claiming it as my own.

Q. Do you know Mr. Otto Shearer who used to live there?

A. Yes, sir, I know him.

34 Q. Did he write those notices for you?
A. Yes; he wrote them.
Q. And did you post them up yourself?
A. Yes, sir; I posted them personally.
Q. Were they posted on the gate that led into that land?
A. Yes; I placed those notices there.
Q. Did an American or white man go upon those lands and prospect and live on there for a time?
A. Yes; there was an American who went on the land and built a house.
Q. Did you notify him that you owned the land and then put up the notices?
A. Yes; I told him not to cut any timber on that land—it was mine; and at the same time I sent to Governor Whitmarsh and told him about it.
Q. Where did you live when your father died?
A. In Baguio, on the land where Mr. Whitmarsh's store now is.
Q. When your father died, how was that land received by you?
A. This land was delivered to me by my father and *by* father-in-law who was also one of the owners of the land.
Q. What is the custom among the Igorrotes in this part of the country when a man dies and land is transferred to another—do they have a "cañao," and did they have it in this instance?
A. When my father was about to die he delivered this land to me, and I called the old people—the "principales" of the place—to witness this delivery; and I gave a fiesta.
Q. Was this land owned by you or did your father before you own it for more than thirty years *years?*
A. It was a little over thirty years that my father and grandfather were in possession of this land before the arrival of the Americans.
35 Q. Can you tell approximately how many years it has been since you- father died?
A. No; I do not know.
Q. Were you married when your father died?
A. Yes, sir.
Q. How many childred did you have at that time?
A. Two.
Q. How many childred have you now?
A. Nine.
Q. Are any of them dead?
A. One of them.
Q. Are the children who were living at the time of your father's death living now?
A. Yes; they are living now; Sioco and Josefa.
Q. Which is the older?
A. Sioco.
Q. How large was Sioco when your father died?

(Witness indicated about three feet.)

Q. Where are your children?

A. Sioco is in my house; two are in Manila.
Q. The children you have in Manila are boys?
A. Yes.
Q. What are they doing in Manila?
A. They are in school.
Q. How long have they been in Manila attending school?
A. The older one has been there two years; the younger one a year.
Q. Is the college they attend a pay-school?
A. Yes, sir, I pay ten dollars.
Q. Have you any other property than that in question?
36 A. Yes; the land where my house is, but the documents of this land are already completed.
Q. Did you make any objection when the military authorities came and took possession of part of the land now in question?
A. I spoke to the military about it but they did not believe me.
Q. When did you tell them?
A. I told them that I was the owner of the land, but they did not believe me, but afterwards they went away.
Q. Did you put the fence across the road after the road was built there, and was it then torn down by some one?
A. I placed a fence but they took it away.
Q. Is there a sawmill located on that land?
A. Yes.
Q. Was the saw-mill placed there against your objection?
A. Yes; I went to the Governor and complained but the Governor told me that I should not object to this machinery being placed there for it was not to cut timber but to saw it.
Q. Have they not, as a matter of fact, [out]* cut† timber since that machine was there?
A. They have not felled any timber, but they have used the trees already down.
Q. Where is this land in question situated?
A. In Lubas.
Q. Do the Igorrote people who have lived in this vicinity for a number of years know and recognize that the land in question is your land?
A. Yes; they know I am the owner of this land.

Cross-examination by Señor PAREDES:

Q. What was the name of your grandfather?
37 A. Banglay Milog.
Q. Did you know your grandfather during his life time?
A. No.
Q. Then you never saw your grandfather?
A. No.
Q. Who died first, your father or grandfather?

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

A. Grandfather.
Q. How many children did your grandfather have?
A. Three.
Q. What were their names?
A. Langbis, Sialong and Padlo.
Q. How many children did Pablo Cariño have?
A. We were eight.
Q. Were these eight children of the same marriage?
A. Yes, sir.
Q. Which of these eight is the oldest?
A. Juan Cariño.
Q. Is Juan still living?
A. Yes.
Q. And the other brothers are still living?
A. A sister died.
Q. Do you remember who was the last Spanish Governor of Benguet District?
A. Antonio Bejar.
Q. You referred in your direct testimony to Governor Oraa. From the time of Oraa to the time of Bejar, how many Spanish Governors were there?
A. A great many.
Q. You stated the land was fenced. What kind of fences are there?
38 A. Earth fence, and when I had cattle there, a wire.
Q. Then this land is now partly fenced with earth and partly with wire?
A. Now there are no wires but only earth fence.
Q. When did you place the wire fence?
A. In Spanish times.
Q. And when did you take it down?
A. A short time ago.
Q. Did you take down that wire fence before filing your application or afterward?
A. After filing my application.
Q. What kind of fences were there on the land when you inherited it from your father?
A. Earth fences.
Q. Who placed the earth fences around the land?
A. My grandfather.
Q. Do you still have the cattle that used to be on this land?
A. The cattle died during the epidemic; I still have some horses.
Q. How many horses have you there now?
A. Seven mares and one stud.
Q. Have you had those horses on the land a long time?
A. From the beginning I had a mare on this land which I inherited. I also had more than twenty head of cattle that were inherited.
Q. Of all the stock that your father had, did you inherit only one mare?
A. Yes, sir; the other horses were distributed among my brothers.

Q. The eight mares and one stud that you now have on this land—were they also inherited from your father?

A. Two of those horses I bought, and the remaining six I inherited from my father.

39 Q. To what use did your father put this land?

A. It was used for pasturing cattle and a small part was used for camotes.

Q. And you have been using it for the same purpose since inheriting it, until the present time?

A. For pasture only.

Q. Do you have any herdsmen to look after the horses on this land?

A. My son takes care of them. When I had many cattle I had herdsmen.

Q. What became of the cattle your formerly had?

A. They all died of rhinderpest during the time of Governor Whitmarsh.

Q. Do you remember the time when the insurrection against Spanish authority broke out here?

A. I remember it, but do not remember it in what year.

Q. At the time of that insurrection did you have any cattle on this land?

A. Yes, I had many.

Q. And the cattle you had—were they not taken by the insurgents?

A. Yes; I gave part of our cattle to the insurgents, and also to the Americans.

Q. When did you lose the last head of cattle you had on this land?

A. The last head of cattle were used at the time of Governor Whitmarsh. I had four cattle left, and on account of the rhinderpest they were sent away.

Q. Since then this land ceased to be used by you for pasture purposes?

A. Yes; since the road was opened and since the gate was torn down, I drove my cattle away from this land.

Q. Who ordered the opening of this road to which you

40 refer?

A. The Civil Government.

Q. How wide is this road that passes through your land?

A. Two brazas—about 12 ft.

Q. Who advised you to place those written papers on the land giving notice of your claim to it?

A. Mr. Whitmarsh advised me to place those notices.

Q. Did Mr. Whitmarsh tell you to do this before the opening of the road or afterwards?

A. Before opening the road.

Q. Was Mr. Whitmarsh Governor of the Province when this road was opened?

A. Yes, sir.

Q. You stated that you knew Mr. Otto Shearer?

A. Yes, sir.

Q. Did you have any conversation, agreements or transactions about this land with Mr. Shearer?

A. I did not have any transactions about this land.

Q. Who was then Provincial Secretary?

A. Mr. Shearer.

Q. Did you have any other conversation with Mr. Shearer about this land.

A. No.

Q. Did not Mr. Shearer tell you that the land in question would acquire a high value after a time?

A. Mr. Shearer told me to place notices on this land.

Q. Didn't Mr. Shearer advise you to take out possessory information title on this land?

A. By advise of Mr. Shearer I took out possessory information in San Fernando, and when I consulted with Mr. Whitmarsh, he also told me it was advisable.

41 Q. Is it not true that Mr. Shearer not only advised you to take out such proceedings, but that he attended to it in San Fernando?

A. Yes; and he also accompanied me to San Fernando where the Court was sitting.

Q. What interest did Mr. Shearer have in this registration?

A. He did not have any interest.

Q. Did he not have an interest in this business when you have stated he attended in person to the proceedings in San Fernando?

A. Yes; he accompanied me because he was going to San Fernando to have title to his own land registered.

Q. Do you remember who were the witnesses you produced in San Fernando in those proceedings?

A. Yes; their names were Damsis and Yatno—both have since died of cholera.

Q. What relationship did you bear to these witnesses?

A. I was not related to them.

Q. Do you know Mr. Reavis, a miner?

A. I know him.

Q. Since when have you known him?

A. Since the American occupation.

Q. Is he the man whom you have stated erected a house on the ground which you claim?

A. No; it was another.

Q. Have you never been out of the Province of Benguet to live?

A. No, sir; I have moved to my rice fields some times.

Q. Have you rice fields outside of the Province of Benguet?

A. I have none outside of the Jurisdiction of Gaguio.

Q. To whom does the saw-mill belong on your land?

A. Mr. Wagner, a clerk in the office of the Provincial Governor.

Q. When did you first see Mr. Clark, who has an option to purchase the ground in question?

42 A. In the time of Mr. Whitmarsh.

Q. Were these notices which you placed on the land in question posted after you first saw Mr. Clark?

A. I posted them before seeing Mr. Clark.

Q. Did you ever know or see an American named General Bell?
A. I saw him once.
Q. Was this before or after posting the notices?
A. After posting the notices.
Q. Has Mr. Clark an option for purchasing this land?
A. When Mr. Clark took a walk on the property he asked me if I wanted to sell the land; I answered yes, because I have no cattle there now.

(Mr. HAUSSERMANN:)

Q. Did your grandfather die before you were born?
A. Yes; he died a long time before I was born.

The JUDGE:

Q. You have declared that this property was inherited from your father and father-in-law. What interest did your father-in-law have in this land?
A. My father, who was married in Tublay, left this land in charge of my father-in-law and told me before his death, to reclaim this land from my father-in-law.
Q. Did your father-in-law also pasture cattle on this land?
A. No; only my father, because my father-in-law had his pasture land here in Baguio.
Q. Did you inherit other land from your father—other than this in question?
A. I inherited a piece of rice land besides this.
Q. Where is the rice land?
43 A. In Pias.
Q. How did you acquire the property where you now live?
A. I acquired this property as an inheritance of my wife.
Q. Do you claim to own any of the land adjacent or bounding the land now sought to be registered?
A. No; the owners would not allow it.
Q. Did any of your brothers or sisters inherit property from your father?
A. Yes; they inherited the land in Tublay; it belonged to our mother, and also lands in Trinidad.
Q. Did your father pasture his cattle on other ground than that now in question?
A. He used to pasture his cattle on his land in Tublay, and that was the reason why he made me marry in Baguio.
Q. Did your father use the land lying between where you now live and the land in question?
A. No, sir.

Mr. PAREDES:

Q. Is your wife still living?
A. Yes, sir.
Q. Can you tell us more or less how many parcels of land your father left upon his death?
A. My father left two tracts of land.

Testimony of Joh- Reavis, Found on Pages 42 to and Including Page 45.

JOHN F. REAVIS being first duly sworn, testified as follows:

44 (Mr. HAUSSERMANN):

Q. How old are you?
A. Forty three years of age.
Q. What nationality?
A. Texan—American.
Q. When did you arrive in the Philippine Islands?
A. In the early part of December, 1899.
Q. What is your occupation?
A. Prospector.
Q. When did you arrive in Baguio Province?
A. In September, 1900.
Q. Have you been living here since?
A. Yes, sir.
Q. Do you know the land claimed by Mateo Cariño, which is now being attempted to register?
A. To some extent, I do.
Q. State whether or not, upon your arrival in Baguio, you heard who claimed the land in question.
A. I heard that Cariño owned the land.
Q. Did you at any time, after your arrival here, occupy any part of that land?
A. I took up a squatter-claim on this creek where the bridge is, calculating that the creek was the center of my claim. I built my house on this side of the creek which would not have been on the ground. (The creek is boundary line of land)
Q. How soon after you built your house did you hear that Mateo Cariño claimed the land across the creek?
A. Very shortly after that.
Q. Did you then move off?
A. I did.

45 Q. Did you notice whether or not the land was enclosed in any way?
A. There was a gate at this bridge, on this side, and some bars near a little creek on the other side of the land on the trail.
Q. What other kind of enclosure, if any, did you notice?
A. A pilapil (earth) fence, and in one place I saw some barbwire.
Q. What is the character of that land?
A. I should say it was grazing or agricultural land.
Q. Did you observe any notice on any part of that land?
A. I did.
Q. What kind of notice?
A. It was a typewritten notice that this ground was owned by Cariño—the land lying between this gate and the bars on the other side.
Q. There was a notice at each gap?
A. Yes.

Q. Were these gates put up at a trail running through the land?
A. Yes; it was trail.
Q. That was before the road, that is there now, was built?
A. Yes, sir.
Q. These notices were placed where?
A. At the gate or near it; I believe the post on this side a short distance from the gate.
Q. Did the enclosure you saw there at the gate appear to be an old gate or one recently constructed?
A. Evidently it had been there for some time; could not say how long; it was not new.
Q. Did you notice any stock there at any time before those gates were taken down?
A. I saw some cattle and carabaos and horses at different times I passed through.
46 Q. They were grazing there?
A. Yes, sir.

Cross-examination by Mr. PAREDES:

Q. How long have you known Mateo Cariño?
A. I cannot say just the first time I met him. I became acquainted with him by sight first, and gradually met him here and there. I am not very well acquainted with him now.
Q. You have a definite knowledge that the land referred to here, belongs to Cariño, or only by information.
A. By hearsay only.
Q. How long did you live in that hut you referred to?
A. About a month.
Q. Does that hut still exist?
A. The present road is excavated just at the side of the place where this hut was built—it takes away the foundation.
Q. How far was this hut from the creek you mention?
A. About one hundred yards.
Q. Do you know the name of the creek?
A. I do not remember.
Q. What place is known to you on or near the creek?
A. The saw-mill is one place I know; it is on this creek three hundred yards below where my hut was built.
Q. When you built your hut, did you build it with the intention of remaining there?
A. I built it under what is known as a squatter-claim.
Q. Do you remember when you built this place?
A. Some time, I think, in December, 1901.
47 Q. Why did you abandon that place so soon?
A. Because I was within the two mile limit of Baguio. They prohibited me taking land within the two mile limit of the Tribunal; the two mile limit, as near as I could figure it, came to the creek. If I could not occupy this side, neither could I occupy the other side, as it belonged to Cariño.

land†

Q. Who informed you that the ∧ within a two mile limit of the tribunal was reserved?

A. There was a notice on the door of the tribunal.

Q. That notice you read in 1901?

A. I think it must have been in 1901.

Q. Who signed that notice?

A. I think Governor Whitmarsh.

Q. Was it written in English or Spanish?

A. I am not certain, but I think it was both—I am not sure of that.

Q. Do you remember more or less, what that notice contained?

A. That was the substance of it—that land could not be taken within a two mile limit of the tribunal.

Q. And that notice was posted on the door of the tribunal?

A. On some part of the tribunal.

Q. Please state the places where you have prospected as a miner.

A. I have prospected from Seoul to Suyoc—all through the mountains.

Q. How long did you prospect those places?

A. I have not terminated yet.

Q. You built the hut to which you referred?

A. Yes, sir; it was a small hut.

Q. Was that hut erected in a place where it would be visible to people traveling to and from Baguio?

A. Not unless they were close observers; the hut was in sight of the road, however, at one place.

48 Q. Were you living in that hut when they opened the new road?

A. No; I have left there before that.

Q. How far was that hut erected from what is now the new road?

A. It was immediately under the road bed.

Testimony of Lorenzo Larena, Found — Pages 46 to and Including Page 50.

LORENZO LORENA, being first duly sworn, testified as follows: Sixty-six years of age; married; carpenter; resident of Trinidad.

Mr. HAUSSERMANN:

Q. How long have you lived in that province?

A. Thirty-four years.

Q. Were you in Baguio during these thirty four years?

A. Yes, sir.

Q. Do you know Mateo Cariño?

A. Yes, sir.

Q. How long have you known him.

A. Since I came to this province. I knew his parents also. He was a young man.

[† In pencil in copy.]

Q. Do you know the land claimed by Mateo Cariño at Lubas?
A. Yes, sir.
Q. Who owns the land known as Lubas?
A. I saw first living on that land the grandfather of the wife of Mateo Cariño, and also her father. They had a little house and were taking care of some cattle, and also some camotes.
Q. What was the relationship between the grandfather of Cariño's wife and grandfather of Mateo Cariño?
A. According to what I have heard they were brothers.
Q. Is this land enclosed?
49 A. It was partly fenced; it was not completely fenced. All the pathways were closed with trees to prevent the cattle going outside.
Q. What kind of fence was around it?
A. I did not say that all the land was completely closed—I noticed when I passed that all the pathways were closed with some kind of fence, some of them of earth and others of wood.
Q. Was it generally recognized, in this neighborhood, that the land in question belong- to Cariño?
A. I do not know.
Q. How long -as Mateo Cariño been in possession of that land under claim of ownership, to your knowledge?
A. I think he has been occupying that land for over twenty years,—since the dead of his father-in-law.
Q. Do you know when Mateo's father died?
A. Nearly twenty years ago he died in Tublay.
Q. Was the father of Mateo Cariño in possession of that land before his death, under claim of ownership?
A. As Mateo's father was living in Tublay, I do not know whether this land was owned by his father or his father-in-law. The father-in-law was present taking care of it—I know the father-in-law was on the land.
Q. What was on the land?
A. Cattle.
Q. Was part of it cultivated?
A. Only small portions of it with camotes.
Q. Do you remember the "cañao" that was held just before the death of the father of Mateo, when this land was delivered to Mateo?
A. No, sir.
Q. Do you remember the death of his father?
A. I do.
50 Q. Do you remember if any "cañao" was celebrated at this time?
A. Yes, sir; in Tublay; because it is our custom to do so when a person dies.

Crossexamination by Mr. PAREDES:

Q. During the thirty four years you have been in the province of Baguio, have you been residing in Baguio or Trinidad?
A. I have always resided in Trinidad during the thirty-four years.
Q. What was the age of Cariño when you first knew him?

A. He was abo-t twelve or thirteen years old.
grand-†
Q. When you knew him was his ∧ father still living?
A. No, sir.
Q. Do you remember when Mateo Cariño's father died?
A. Yes, sir.
Q. Can you state the year?
A. I do not remember the year, but from calculation I think it was about twenty years ago.
Q. Have — been holding some public office in Trinidad?
A. Yes, sir.
Q. What office have you held?
A. I have been gobernadorcillo in Trinidad ten years.
Q. Is it true that at the time of the death of Mateo's father he notified you of the fact that he inherited the Lubas land?
A. Yes, sir.
Q. In what form did he give you notice?
A. I was advised verbally, because at that time they did not notify by writing.
51 Q. Who else was given notice by Mateo Cariño of this fact?
A. Notice was given to several. I do not remember the names.
Q. Do you know the area of the land to which you refer?
A. Yes, sir.
Q. When you stated that this land was fenced you referred to the present time or the time you first knew the land?
A. The former time, as I do not know it now.
Q. When was the last time when you saw this land?
A. The last time was when Governor Whitmarsh told me to point out to the choppers the timber that was going to be used for the quarters of the soldiers.
Q. In what year was this?
A. Last year.
Q. Was Mr. Whitmarsh still Governor when he sent you to this land?
A. No, sir.
Q. When you went to this land for the purpose indicated, did you notice whether there were animals on the land?
A. I saw some horses—nothing more.
Q. You saw this same fence on this land?
A. I saw some fences along the road, but none inside.
A. What kind of fence?
A. Earth fence.
Q. On that occasion did you see any cultivated land?
A. No.
Q. Did you see any other kind of plantation?
A. No, sir.
Q. When did you know this land for the first time?
A. More than thirty year- since I knew that land.

[† In pencil in copy.]

Q. When and why did you know the land?

A. I became acquainted with the land because I used to
52 visit Mateo Cariño's father-in-law and they used to invite me to call on them.

Q. How many times have you visited this land?

A. I do not remember now, but many times.

Q. And on those several occasions you were on the land you did not have a chance to know its area?

A. No, sir.

—. Did you know Mateo Cariño's father intimately?

A. Yes, sir.

Q. Can you state how many tracts of land he left to his children when he died?

A. I can state some but not all. In Tublay he left property to Juan; in Trinidad he left a piece to his daughter, and this of Lubas to Mateo.

Q. The different times when you went to this land, did you see many cattle?

A. Yes; I saw three kinds of cattle, carabaos, cattle and horses.

Q. How many carabaos did you see?

A. As I remember it over fifty, some seventy or eighty cows and about thirty horses.

Q. Are you sure there were more than fifty carabaos?

A. Yes, sir.

Q. What has become of those carabaos?

A. At the time Mr. Whitmarsh was Governor I do not think there were many left because most of them died?

Mr. HAUSSERMANN:

Q. Do you mean to be understood that there were no other fences there than those along the road, or was that all you saw?

A. I cannot state whether the land was entirely fenced or not, because I never had occasion to go around the land and I only noticed what I saw on the road.

53 JUDGE:

Q. Did any other person than Mateo place their cattle to pasture on this land?

A. No, sir.

Testimony of H. P. Whitmarsh, Found on Pages 50 *to and Including Page* 56.

H. P. WHITMARSH, being first duly sworn, testified that he was forty-one years of age; resident of Baguio; occupation store-keeper.

Mr. HAUSSERMANN:

Q. When did you first arrive in Baguio?

A. In January, 1900.

Q. How long did you stay there at that time?

A. About a month.

Q. During that time did you learn to know Mateo Cariño?

A. Yes, sir.
Q. When did you next arrive in Baguio?
A. October, 1900.
Q. When you first arrived, did you hold any official position?
A. No, sir.
—. Did you the second time you arrived?
A. No, sir.
Q. How long did you remain the second time?
A. I remained permanently.
Q. When were you appointed Governor of the Province?
A. November 29, 1900.
Q. Did you know the land at Lubas, which is in question here, alleged to be owned by Mateo Cariño?
A. Yes, sir.
54 Q. When did you first know that land?
A. January, 1900.
Q. When did you first learn that land was claimed by Mateo Cariño?
A. January, 1900.
Q. How did you get that information?
A. When I was first here I went to Lauacan, and in passing through the gates, through which you had to go to get into his property, I asked the guide who was with me, why it was fenced, and he said it was land that belonged to Mateo Cariño.
Q. Was the guide from this neighborhood?
A. From Trinidad.
Q. Did you learn subsequently that it was generally conceded in the neighborhood here that the land belonged to Mateo Cariño?
A. Yes, sir.
Q. How was the land enclosed?
A. Enclosed by a pilopil or sod fence for the most part, and other parts with fallen trees. There were certain parts of the property that were not fenced, but as to those nature had provided places through which the cattle could not go.
Q. From January, 1900, to the present time has Mateo Cariño been in possession of that land under claim of ownership, so far as you know?
A. Yes, sir.
Q. Do you know, whether or not he objected to that road being put through, or that he made known his claim to that land when the road was being built?
A. No.
Q. Do you know of any fence that he put across the road after it was built?
A. No.
55 Q. During the time that you knew that land has anybody else been in possession of same under claim of ownership other than the military and civil authorities?
A. A man named McDonald squatted there and started to built a house.
Q. Did he stay there long?

A. No; Cariño complained to me about it. I was then Governor. I told McDonald and he abandoned it.

Q. During all the times that you were in the province as Governor, did Mateo openly and notoriously claimed to be in possession and to own the land in question?

A. He did.

Q. Was it recognized by the neighborhood here, especially the natives of this province, that he was in fact the owner of that land and in possession of it?

A. Yes, sir.

Q. What kind of land is it—how would you describe it in [pur]* our† language?

A. Grazing and agricultural land.

Q. Not what you would call mineral land?

A. No, sir.

Q. Do you know how many acres it contains?

A. Between 300 and 400 acres.

Q. Do you know the value of agricultural land in its vicinity?

A. At the present time, according to sales I have made, it has brought $100. gold.

Q. Would you consider $100 gold to be a fair and reasonable value of the land in question here?

A. I should think it was.

Q. Do you — of any land in the vicinity here being sold for $100 per acre?

A. Yes, sir; I have sold some land at that price.

56 Q. How does the value of the land at present compare with the value of same prior to American occupation?

A. The value has enhanced greatly because it can be used now for building purposes.

Q. Has the value of the land increased very materially during the past year?

A. Yes, sir; from $60 to $100 gold.

Q. What governmental acts, if any, increased materially the value of land in this vicinity?

A. The commencement of work on the new road was one thing, and then the law which the Commission passed making this the summer capital increased it further.

Q. In your opinion about what per cent. increase has there been in the value of land from the time you first arrived here and now?

A. Land when I came here was worth but little because it was so far from all communication.

Q. In your judgment what could an acre of vacant land have been purchased for at that time?

A. It depended upon where it was. A year after I got here I bought land for $10 Mexican in the barrio where I live near Suizod.

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

Q. Taking that as a basis for the value of land, what would be the reasonable value of land at that time?

A. I think I paid a fancy price for it at that time. There were the†
many people like Shearer who had secured [a]* land a year before for nothing. The Igorrotes did not consider it of great value.

Q. At that time you considered $10 Mexican per acre for land in the vicinity of Baguio, to be a fancy price?

A. It was a good price.

57 Cro-s-examination by Mr. PAREDES:

Q. When did you cease to be Governor of Benguet?

A. November, 1901.

Q. During the time you were Governor was work on the new road begun?

A. Yes, sir.

Q. In your direct testimony you mentioned a path and gates which you had to pass necessarily?

A. Yes, sir.

Q. Is it not that path where the new road has been opened?

A. The new road has been opened in a different place—quite near however.

Q. Does the path still exist?

A. Yes, sir.

Q. Then it was a public way?

A. It was a regular trail for Igorrotes, except the gates which were each side of the property.

Q. And you passed on that trail the first time you were in Baguio?

A. Yes, sir.

Q. At that time every person traveling went by the trail also?

A. Not necessarily, because this country has trails all over it. That is the main trail to Loachan, but not the only trail one could take.

Q. Why was it necessary for you to go by that trail?

A. I went the trail purely by choice and because that was the way I was guided.

Q. Did you have to ask permission of the owner to pass through that trail?

58 A. No, sir.

Q. That trail was closed at both ends?

A. Yes, sir.

Q. And at both sides along that trail was there any fence?

A. No, sir.

Q. Referring to the new road opened while you were Governor, is it certain that Mateo Cariño placed a fence in the middle of that road?

A. I do not know.

[*Letter enclosed in brackets erased in copy.]
[†In pencil in copy.]

Q. If he had placed such a fence would it have reached your knowledge as Governor?

A. I do not know that it would—at least it did not.

Q. Do you remember, as Governor of this province, of having published a notice that land within two miles of the tribunal of Baguio was reserved?

A. I issued an order to that effect. I think the distance, however, was one mile from the tribunal. I presume the notice is still on record in the province.

Q. Were you ordered by any law to make such reservation?

A. No.

Q. Then you issued it on your own initiative?

A. I issued it at the request of the Commission who expected the Spooner bill to pass in a month or two. It didn't pass.

Mr. HAUSSERMANN:

Q. Were you here at the time General Bell went through?

A. I entertained General Bell when he was here.

Q. Did you have any conversation with General Bell with reference to this land in question?

A. Yes; I rode out over it with him and he thought it would be a fine place to take up as a military reservation. I told him that I thought as he did, but there might be some objection as
59 the land was claimed by an Igorrote—Mateo Cariño.

Mr. POOLE:

Q. Can you state approximately when General Bell rode over the land and expressed the idea that it would be good for a military reservation?

A. No; I cannot place the date.

Q. Do you know whether it was before or after the application of Mateo Cariño for possessory information title?

A. I should think it was before.

Testimony of Igorrote Binuan, Found on Pages 56 to 57.

IGORROTE BINOAN, being first duly sworn, testified as follows:

Didn't know his age. Agreed by counsel to be about seventy. Born in Baguio and had always lived in Baguio and vicinity.

Mr. HAUSSERMANN:

Q. Do you knoe Mateo Cariño?

A. Yes, sir.

Q. Have you known him since he was a boy?

A. Yes, sir.

Q. Did you know his father?

A. Yes, sir.

Q. Do you know land at Lubas claimed by Mateo Cariño?

A. I know that the place of Lubas belongs to Mateo Cariño.

Q. And also the place where his house is?

A. Yes, sir.
Q. How long has Mateo owned the land at Lubas?
A. I do not know.
60 Q. Did Mateo's father own the land?
A. He inherited it from his father.
Q. Is there a fence around that land?
A. The earth fence is standing but the wooden fence, composed of fallen trees, has rotted.
Q. Was the fence there when Mateo's father was alive?
A. It was fenced when Mateo inherited it.
Q. Did Mateo's father have cattle on that land—carabao etc.?
A. That land was fenced on account of the animals he had there.
Q. Did Mateo's father own that land when Mateo was a little child?
A. Since Mateo was small the father appointed him heir to this land.

Cross-examination by Mr. PAREDES:

Q. How do you know that the land at Lubas belongs to Mateo Cariño?
A. I know it because I was a neighbor.
Q. Since when did this land pass to the possession of Mateo Cariño?
A. A long time ago.
Q. Did Mateo Cariño have possession of this land while his father was still living?
A. The land was delivered to him while he was still living—when he was small.

Mr. POOLE:

Q. Was it the custom for the headmen among the Igorrotes to exercise supervision over the land for the benefit of the people or as individual owners?
A. This land belonged to Mateo Cariño's family.

61 *Testimony of Francisco Belancio, Found on Page- 57 to 60.*

FRANCISCO BELANCIO, 78 years of age, married, living at Naguilian, being first duly sworn, testified as follows:

Mr. HAUSSERMANN:

Q. Have you ever lived in Baguio?
A. Yes, sir.
Q. When did you move to Naguilian?
A. 1901.
Q. Before you moved to Naguilian where did you live?
A. In Trinidad.
Q. How long there?
A. Twenty years.
Q. Did you know Mateo Cariño?
A. Yes, sir.

Q. Did you know his father?
A. Yes, sir.
Q. Have you known Mateo since he was a child?
A. I did not know Mateo since his childhood, but I knew him in Tublay when I was Municipal Secretary.
Q. When did Mateo's father die?
A. In 1863.
Q. Do you know the land at Lubas claimed by Mateo Cariño?
A. Yes, sir.
Q. Who owns that land?
A. In the time of Mateo's father, when I came to Baguio, he told me to go and see Mateo because he had means. He had some animals in Lubas. In that way I came to know that the Lubas land belonged to Cariño.

62 Q. Did Mateo Cariño have at that time cattle on that land of Lubas?

A. In these time I have known that Mateo Cariño has some animals in Lubas; I also know that he had animals in Lubas when I was directorocillo of Baguio.
Q. When were you directorocillo of Baguio?
A. From 1898 until 1900.
Q. Did Mateo own the land when you were directorocillo?
A. That was the information I received from the Igorrotes.
Q. Have you been on that land—have you seen it?
A. I have gone through the trail sometimes.
Q. At that time did Mateo have cattle on the land?
A. Sometimes I have seen some eight cows with calves, and some three mares.

Cross-examination by PAREDES:

Q. Did you know of your own knowledge that the land at Lubas belongs to Mateo Cariño?
A. When my horse ran away he went in the direction of that land and I heard that Cariño was the owner, so I asked permission of him to go to the land and Cariño delivered me the horse.
Q. Have you any other reason for believing that the land belongs to Cariño?
A. No; there are no papers which would enable me to know it. I also understood that he had placed fences, etc.
Q. Did you see Mateo Cariño place those fences?
A. I did not see the wood placed on that land—I have seen the wire fence,—that he bought from Hollman.

63 When did you see Mateo Cariño putting up the wire fence?
A. About 1898.

Q. Do you know whether the horses and other animals you saw on that land belonged to Mateo Cariño?
A. I do not know very well. I saw some with the brand of Mateo Cariño, but the others did not have any brand, but I supposed as those horses were on his ground they belonged to him.
Q. Did you see on this land any animals bearing brands which did not belong to Mateo Cariño?

A. I cannot say if all the animals were branded because I only went through the land and when I went through I only saw a few animals.

Q. And those eight animals, were they branded with Cariño's brand?

A. No; there were three of these animals not branded with Cariño's brand.

Q. Which is the older, yourself or Mateo Cariño?

A. I am.

Mr. HAUSSERMANN:

Q. How old is Mateo Cariño?

A. In my judgment he is over forty.

Q. How many years has Mateo owned that land according to your knowledge?

A. I heard his father state that Cariño was the owner of this land—it is over thirty years ago.

Mr. PAREDES:

Q. What was the age of Cariño when his father told you this?

A. Cariño was already married and had children. In my judgment he was more or less sixteen years.

Q. And he then had two children?

A. He had only one.

64 *Testimony of Nels Peterson, to be Found on Pages 60 to and Including Part of Page 62.*

NELS PETERSON, age 32, by occupation a miner, being first duly sworn, testified as follows:

Mr. HAUSSERMANN:

Q. How long have you been in Benguet province?

A. Four years next month.

Q. Have you been in this vicinity all this time?

A. Not all the time—I have been here with the exception of about nine months.

Q. Where were you those nine months?

A. In Masbate and Mindanao.

Q. Did you know Mateo Cariño?

A. I know an Igorrote by that name.

Q. Do you know the land in question here?

A. I know of it, I think.

Q. Have you gone through the land?

A. As near as I know I have passed through the land many times since in the country.

Q. When you first arrived here and knew that land, was it enclosed?

A. There was a fence around it and a gate on the north side, and on the south side there were bars.

Q. Of what material was the main fence?

A. It was sod fence.

Q. Is the land what you would call agricultural land as distinguished from mineral land?

A. I would call it pasture land.

65 Q. It is not what is ordinarily known as mineral land?

A. So far as I know it is not. I have never prospected on it.

Q. Were those gates to which you refer, crossing the trail running through the land?

A. They were across the main trail.

Q. Were there any cattle or horses of any kind on that land as you passed through it?

A. Yes, sir; there were cattle and horses there at the different times I passed through.

Q. Did you know or did you learn after you arrived here, who was considered by the natives to be the owner of that land?

A. No, sir; with the exception that I understood that Mr. Clark had an option on it, I do not know the Igorrote which claimed it.

Q. According to hearsay who do you understand to be the owner?

A. I did not hear the name.

Q. When you first knew the land, was it before the new road was put there?

A. Yes, sir.

Cross-examination by Mr. PAREDES:

Q. In what year did you pass through the land?

A. March, 1900.

Q. Were there other trails passing through that *trail?*

A. I only passed through the one trail where the gates were.

Q. You have referred to an option which Mr. Clarke had on that land; will you state what kind of option he had?

A. I do not know anything about that except general conversation I had with miners, when I passed through here four

66 years ago, that Mr. Clarke had an option on certain property owned by an Igorrote between Baguio and Loachan.

Q. In what year did you have this conversation with the miners?

A. In 1902—the second year I was in the country.

Testimony of Igorrote Piraso, Found on Pages 62 and 63, Inclusive.

IGORROTE PIRASO, age forty, more or less, being duly sworn testified as follows:

Mr. HAUSSERMANN:

Q. Do you know Mateo Cariño?

A. Yes.

Q. Is he older than you?

A. Yes.

Q. How long have you known Mateo Cariño?

A. We were children together.

Q. Do you know land at Lubas claimed by Mateo?

A. I do.

Q. Did you know Mateo's father before he died?
A. Yes.
Q. How long has Mateo owned that land?
A. I know that Mateo inherited that land from his father. I do not remember the year.
Q. Has Mateo been in possession of that land since the death of his father?
A. Yes, sir.
Q. For what was the land used by Mateo?
A. Used to graze horses and cows and to raise camotes.
Q. Is there a fence around the land?
A. Yes, sir.
67 Q. Do the people here in this vicinity know that that land belongs to Mateo?
A. Yes, sir.
Q. Did the people know during the Spanish times and before the Americans came here that that land belonged to Mateo?
A. Yes, sir.
Q. Do you own any land in this province?
A. Yes, sir; I own the land to the north of the land owned by Cariño.
Q. Who else owns land bounding on Mateo's land?
A. Quarantes, at Loachan.
Q. Does any one else own land adjoining Mateo's land?
A. No; we two only.

Cross-examination by Mr. PAREDES:

Q. What relationship have you to Mateo Cariño?
A. I think we are cousins in the third degree.
Q. Did you know his father?
A. Yes.
Q. Was his father still living when Mateo took possession of the Lubas property?
A. Yes, sir.
Q. How many years did Mateo's father live after Mateo took possession of the property?
A. I think about ten years.
Q. Can you state who are the adjoining owners of the land in Lubas claimed by Mateo?
A. There are no other adjoining owners but Quarantes and myself and one person in Trinidad.

68 *Testimony of Igorrote Ayaman, Found on Page* 64.

IGORROTE AYAMAN, age unknown, married, living in Barrio of Bacaqui, town of Baguio, being first duly sworn, testified as follows:

Mr. HAUSSERMANN:

Q. Do you know Mateo Cariño?
A. Yes, sir.
Q. How long have you known him?

A. I do not know how many years.
Q. Did you know him when you were a child?
A. I was already grown when I knew him.
Q. When you first knew him was he married?
A. He was not married?
Q. Do you know the land in Lubas?
A. Yes.
Q. Who is the owner of that land?
A. Mateo—he received it as an inheritance.
Q. Did Mateo's father own the land before him?
A. Yes, sir.
Q. Did all the Igorrotes around here know that that land belonged to Mateo?
A. Yes, sir.
Q. Is the land enclosed?
A. Yes, sir.
Q. For what did Mateo used the land?
A. Carabaos and cows.

Cross-examination by PAREDES:

Q. Do you know that Mateo Cariño inherited the land from his father?
69 A. I know the land at Lubas belongs to Mateo because my mother told me so.
Q. Then you did not know it personally but through the statement of your mother?
A. I heard it from my mother; would not have known otherwise.

Testimony of Governor Wm. F. Pack, Found on Pages 65 to 74.

Mr. HAUSSERMANN: If the Court please, in order to expedite proceedings the applicant will rest his case for the present, with the understanding that further testimony, if circumstances seem to require it, will be presented.

This being agreeable to the representative of the Civil and Military Government, Governor WM. F. PACK was presented by Señor Paredes as a witness on behalf of the Government, and after being duly sworn, testified that he was Provincial Governor of Benguet, 42 years of age, residing in Baguio.

Mr. PAREDES:

Q. Since when have you resided in Baguio?
A. Since November 15, 1901.
Q. Have you been absent from the province of Benguet since that time?
A. On business only.
Q. Have you not changed your residence?
A. No, sir.
Q. Do you know Mateo Cariño?
A. I do.

Q. As Governor of this province do you know the land reserved for use of the Government in this province?

A. I do.

70 *Q.* The witness was shown a plan of the land claimed by applicant, filed with the application, and asked if he knew the property. He stated that he did and that the land described was within the Government Reservation.

Q. The whole of it?

A. All of it.

Q. Since you arrived in this province whom have you known as the owner of that land?

A. I have been told that Mateo Cariño had a claim to that land.

Q. When was the first time you knew this land?

A. Since my arrival in the Province.

Q. And when was the last time you saw it?

A. Yesterday.

Q. Do you know that the land described in this plan has fences?

A. I know there has been fences about parts of that ground—I do not think there was a fence all around it.

Q. When you saw it yesterday in what state did you find it—was it fenced or not?

A. It was not fenced—there were the remains of an old fence still visible.

Q. Do you know whether this land has been occupied by Mateo Cariño since your arrival in this province?

A. I do. It has not been occupied by him exclusively.

Q. What has been the nature of Mateo Cariño's occupation?

A. Pasturing stock there.

Q. At the present time has he stock there?

A. I do not know.

Q. Have you notice- the road which, according to that plan, goes through the land?

A. I have.

71 Q. Since when has this road been opened?

A. The new road was opened through this territory previous to November 15, 1901.

Q. Is the land cultivated now?

A. No, sir.

Q. There is no plantation of coffee or sweet-potatoes?

A. Not to my knowledge unless it would be in the little point described in that land which I have not visited.

Q. You stated that the land was not occupied exclusively by Mateo Cariño. Can you state by who else it has been occupied?

A. The Government, on the part of its military representatives, the army.

Q. How does the Government occupy this ground?

A. Formerly by permission of the Civil Government in Manila—afterwards, I understand, by order of the Secretary of War.

Q. And the occupation of the ground by the Military Government has come to the knowledge of Mateo Cariño?

A. Yes, sir.

Q. And has Mateo Cariño made any objections or protested against that occupation?

A. Never to me.

Q. Do you know if the Lubas land, which Cariño seeks to register has been at any time abandoned by Cariño.

A. I do not know—there has been nothing official regarding this land coming before me.

Q. From the condition of that property—from the fences you have seen—could you say whether that property has been abandoned?

A. There has been no care taken of the property whatever. As to a legal abandonment I do not know—I cannot say.

72 Q. How long is it that you have seen this land without fences in different places?

A. Ever since I have been here it has only been that much better as effected by the weather in the time elapsing.

Q. You stated that in your judgment this land would be good for grazing; would you also say that it would be good for agricultural purposes?

A. I do not think it would be good for agricultural purposes.

Q. Do you know the house of Matea Cariño in Baguio where he lives?

A. Yes, sir.

Q. How far is the land in question from this house, in a direct line?

A. About a mile and a quarter.

Q. Could you give that same distance in feet?

A. 6500 feet.

Q. Do you know from official or historical data when the capital was established at Baguio?

A. Cannot give the date.

Q. In the application there is a letter signed "Wm. F. Pack," addressed to the Clerk of the Court; will you please examine it and state to the Court if you identify it?

A. This is my letter; I sent it to Mr. Wilson.

Q. Are the contents of this letter true?

A. To the best of my knowledge; yes, sir.

Q. In that you speak of land adjoining this land belonging to different chiefs. What information have you on that subject?

A. If I remember correctly, I said that the boundary lines between the different chiefs were clearly defined, but that they are not matters of record.

73 Q. According to the information that you have, does this land belong to Cariño as a chieftain or to him as an individual?

A. I have always considered that it belonged to him as a chieftain.

Q. In the letter to Mr. Wilson you also state that a certain Mr. Clarke, taking advantage of the custom prevailing among the natives of dividing their lands among the chieftains, had this Mateo Cariño claim this property. Is this true?

A. As far as appearances go, it is a statement of the conditions. Mr. Clarke comes in and has this man take out a possessory title, for the purpose of protecting his title.

Q. Do you know of any contract between Mr. Clarke and this Igorrote concerning this land?

A. I know nothing about it.

Q. In the same letter you state that the land in question is within the reservation made by the Commission by Act 636. Is this correct?

A. Yes, sir.

Q. Do you know whether any engineer, under Act 636, has made an official survey of the land reserved by that Act?

A. I think such survey is now being made by Mr. Hayward.

Q. Is the survey already made?

A. It is not completed.

Q. Did you accompany Mr. Hayward to make that survey?

A. No, sir.

Q. State, therefore, why you consider the land in question within this reservation?

A. By a knowledge of general directions and the points that are mentioned in the Act.

Q. Are you very sure of it?

74 A. Yes; I am quite certain of it.

Mr. HUSSERMANN:

Q. Have you walked around the boundary lines of the land in question here?

A. No, sir.

Q. Then you have no personal knowledge of the proportion of that land that is actually fenced in?

A. I have not.

Q. From your investigations of conditions in this province after taking your office of Governor, state whether or not you gathered the information from the natives and other sources, that the land in question was claimed by Mateo Cariño, as owner, and had been considered by the natives here to belong to Mateo Cariño for some time prior to your coming to this province?

A. I gathered the impression that the natives considered that this was Mateo Cariño's grazing land.

Q. In that investigation you also learned, did you not, that Mateo Cariño was regarded among the Igorrotes as a wealthy man?

A. Yes, sir.

Q. That he had a very good house that in itself was worth about 4,000 pesos?

A. Yes, sir.

Q. That he had rice fields that were quite valuable?

A. Yes, sir.

Q. That he had herds of cattle and many ponies?

A. Yes, sir.

Q. That he claimed jurisdiction over mountain land for grazing?

A. Yes, sir.

Q. That he had possession of this besides the particular land that is described in his application?

75 A. Yes, sir.

Q. That on all that property, without description or specification he paid taxes to the Municipality of Baguio, Province of Benguet?

A. Yes, sir.

Q. You also found from your investigation, that he had no title whatever to any land, although he had been in undisturbed possession of the land on which he lives for nearly thirty years?

A. Yes, sir.

Q. You also reported that you felt it your duty as Governor to enter into some detail concerning the several transactions had concerning this particular land?

A. Yes, sir.

Q. Did that refer to the land now sought to be registered?

A. Yes, sir.

Q. You reported that under the Spanish Government, notwithstanding the Royal Decree of May 14, 1867, Article 8, it was the practice of the Spaniards to give no title whatever to Igorrotes?

A. Yes, sir.

Q. Therefore you reported that there were none extant?

A. Yes, sir.

Q. Do you mean by that part of your report that it was not the practice of Spaniards to give paper title, and that there were no paper titles extant?

A. That there were no grants made from the Spanish Government to the Igorrotes.

Q. You did not mean to claim that Igorrotes could not claim title under the various land laws promulgated by Spain?

A. Certainly not?

Q. You also reported that Igorrote Chieftains, like Mateo, simply by force of character maintained their dominant sway over large tracts of land in the Province of Benguet?

76 A. Yes, sir.

Q. Upon what did you base that calculation?

A. Upon my observation throughout the province.

Q. You learned from your investigation among Igorrotes that these boundary lines were sharply defined?

A. Yes, sir.

Q. You also reported that the territory of this particular headman (meaning Mateo) extended over a great many kilometers from the eastern boundary of the land described in this application, to the Irisan on the West?

A. Yes, sir.

Q. How, in view of the testimony of Mateo on the stand here and the other Igorrotes, to the effect that he claims only this tract here, would you say now regarding that statement that you were mistaken?

A. I have seen his horses on land extending from this particular tract to the Irisan, nearly twenty kilometers away.

That does not mean to say that I deny or affirm that he makes

particular claim to any particular territory, but that he herds over all that territory between this land & the Irisan.

Q. That tract of land extending twenty kilometers would include the present townsite of Baguio?

A. It would run through on the south of it.

Q. You saw those head of cattle since you were Governor?

A. Yes, sir.

Q. From your best judgment how many cattle did you see grazing over this large extent of territory?

A. I have probably seen fifty carabaos and cows at least.

Q. How do you know the cattle you saw belong to Cariño?

A. His son told me they did.

77 Q. Which son?

A. Sioco.

Q. Did Mateo ever tell you that he owned the cattle roaming around here grazing since you were Governor?

A. No, sir.

Q. Did you hear his testimony to the effect that all of his cattle and carabao died of the epidemic during Mr. Whitmarsh's term as Governor?

A. I did.

Q. Are you in possession of any facts which would prove his testimony on that point untrue?

A. I do not like the way you put that question. Mateo is a truthful man. He made a statement there which I think he misunderstood. My sanitary inspector who was vaccinating cattle because of the pest, reported to me that Mateo had about 200 cattle and Sioco about 80 cattle when he made his report to me regarding the inoculation against the pest.

Q. Then you think when he testified that all of his cattle, or practically all of them, died of the epidemic during Mr. Whitmarsh's term, that he misunderstood the question?

A. I do. I think he referred only to those in this vicinity.

Q. Then the cattle which you have reference to were not in this vicinity?

A. No; they were over the hill towards Irisan.

Q. About what distance from here?

A. From three to four miles.

Q. What is the reputation of Mateo Cariño in this vicinity, for integrity and veracity?

A. There is none better in the world. I do not care to convey an imputation against him.

78 Q. That part of your report. Governor, in which you made reference to Mr. Clarke influencing Mateo to make that possessory claim; upon what information, if any, did you base that conclusion?

A. That was not made upon any investigation, it was based upon matters of information that came to my knowledge constantly, one time after another.

Q. Is not that simply an inference which you draw from your general experience as a man in the affairs of the world, acting upon conditions peculiar to the situation in Baguio at that time?

A. Yes, sir; that was exactly what it was.

Q. It was not based then upon any particular fact that you may have acquired or any direct evidence that Mr. Clarke had, in any way, advised or influenced him to file those papers at San Fernando?

A. No, sir.

Q. When you stated in your examination in chief that this land was not good agricultural land, did you base that assertion upon the general condition of the soil in that vicinity?

A. Yes, sir; I have been unfortunate in making experiments in that soil.

Q. To properly classify that land as between mineral and agricultural land, having in mind the distinction which our Congress has made with reference to such lands, this land would be classed as pasture or agricultural land as contrasted with mineral land?

A. Some people have classed it as mineral land but I would classify it as agricultural land.

Q. Then, as I understand it, the proper classification of that land would be good pasture land?

A. Yes, sir; good grazing land.

79 Q. During all the time that you have been Governor of this Province is it not a fact that Mateo Cariño was in the exclusive possession of that land in question, except, of course, such possession as the military authorities have and the reservation made by Act 636?

A. He was; there was no one else using that land.

Testimony of Esteban Milo, Found on Page- 74 to 78, Inclusive.

ESTEBAN MILO, Igorrote, 25 years of age, married and living in Baguio, being first duly sworn testified as follows:

Señor PAREDES:

Q. Where are you employed?

A. By the Governor.

Q. Do you know Mateo Cariño?

A. Yes, sir.

Q. Since when have you known him?

A. Since I was nine years old.

Q. Do you know certain land in Lubas now sought to be registered by Cariño?

A. Yes, sir.

Q. Do you know to whom that land belongs?

A. I do.

Q. State to whom it belongs?

A. That is the grazing land of Capitan Mateo—I do not know when he fenced it.

Q. When you first had reason was this land used by Cariño?

A. Yes, sir.

80 Q. From that time until the present has that land always been an "instancia" (grazing land) of Mateo Cariño?

A. Yes, sir; under Spain it was, but since the revolution it has been more or less abandoned as it is now.

Q. Since the revolution until now Mateo has abandoned that land?
A. Yes, sir.
Q. Upon what do you base that assertion?
A. Because since the revolution he has not repaired the fences upon that land.
Q. Before the revolution did you see many cattle upon that land?
A. Before the revolution the cattle used to graze there.
Q. And after the revolution did you continue to see many cattle on this ground?
A. During the revolution the cattle grazing on that land were taken away, I do not know where driven.
Q. When did the revolution, to which you refer, take place?
A. In my judgment, over seven years ago.

Mr. HAUSSERMANN:

Q. You have known Mateo Cariño since you were nine years old?
A. Yes, sir.
Q. When you first knew him, he was in possession of that land as the owner?
A. I only knew that land belonged to Mateo because the people told me it was the grazing land of Mateo.
Q. At that time there was a fence around the land?
A. Yes, sir.
Q. And that continued until the outbreak of the revolution?
A. Yes, sir.
81 Q. During all that time since you were nine until the outbreak of the revolution Mateo was pasturing his cattle on that land, was he?
A. In Spanish times I saw it often.
Q. When did you notice that the lands were not being used any more for pasture?
A. It is now five years.
Q. Did he not have cattle in there during the term of Governor Whitmarsh?
A. No; there were none.
Q. Are you sure there were no cattle in that land during Governor Whitmarsh's term?
A. Yes, sir; I am certain.
Q. Do you remember the outbreak of the pest that occurred in this province during Governor Whitmarsh's term?
A. Yes, sir.
Q. Many cattle died during that time?
A. Yes, sir.
Q. Did not Mateo lose many cattle during that time?
A. Yes, sir.
Q. Those cattle that died during Governor Whitmarsh's term that belonged to Mateo—were they not pastured on that land before their death?
A. No; some were pastured in Pias and others in Pacdaw.
Q. Where were you living during Governor Whitmarsh's term?

A. In the same place I am living now.
Q. Were you employed by the American Government?
A. Yes, sir.
Q. Are you now employed by the American Government?
A. Yes, sir.
82 Q. What work do you do for the American Government?
A. As overseer of the workmen and as cook for the Governor.
Q. Do you remember when that new road was built through Mateo's land?
A. Yes, sir.
Q. Before that road was built was there not a trail running through the land?
A. There are two trails on that land—a new one.
Q. Is it not a fact that in order to go on the old trail on Mateo's land it was necessary to go through a gate?
A. Yes, sir.
Q. And is it not a fact that those gates were there and it was necessary to open them to go through that land since the Americans came to Baguio?
A. Since the arrival of the Americans they were open and have not since been closed.
Q. When the Americans arrived in Baguio the gates were still on the trail?
A. They were, but have not since been closed.
Q. Who opened those gates?
A. I do not know; I only know that they were no longer closed.

Sr. PAREDES:

Q. Are you a native of Baguio?
A. No; Sablan.
Q. Does Sablan belong to the jurisdiction of Baguio?
A. Yes, sir.
Q. As a native of this province do you know the customs among these people?
A. Yes, sir.
83 Q. According to the custom here if an Igorrote dies leaving various children and considerable property, who inherits the property?
A. The custom is that if there are three children the property must be divided equally among them.
Q. If there are, for instance, three children and one piece of land, to whom does this land go according to the custom here?
A. If it is a rice field it goes to be divided among the three children.
Q. And these customs of which you speak, are they observed among the Igorrotes the same as law?
A. Yes, sir.
Q. What custom have the Igorrotes owning many cattle—do they put them in one place or do they put them in many places?
A. The custom among the Igorrotes, if there are many head, is to build an enclosed grazing field.

Q. Is it not also a custom, observed by others, to allow the cattle to run at large—to pasture in the mountains?

A. If the cattle are few they are allowed to roam and the tract is not fenced.

Q. What do you call "instancia" here?

A. It is the same in Ilocano as Igorrote.

Mr. HAUSSERMANN:

Q. Is that land down at Lubas, which Mateo claims, an instancia?

A. Yes, sir.

Testimony of E. L. Pulver, Found on Pages 78 to 82, Inclusive.

84 E. L. PULVER, residence Manila, age 45, occupation carpenter, being duly sworn, testified as follows:

Mr. HAUSSERMANN:

Q. When did you first arrive in Benguet Province?

A. February, 1900.

Q. Do you know the tract of land in question here which Mateo Cariño is attempting to have registered?

A. Yes, sir.

Q. When were you first on that land?

A. I passed through there sometime in the month of February, 1900.

Q. At that time was the new road built?

A. No, sir.

Q. Was there a trail through the land?

A. Yes, sir.

Q. In taking that trail going through the land state whether there were any gates to be opened?

A. Yes, there were.

Q. At either end of the trail?

A. Yes, sir.

Q. Did you assist in the survey of that land made for these proceedings?

A. Yes, sir.

Q. Who made the survey?

A. Mr. Davies.

Q. What were your duties in making that survey?

A. Carrying the chain.

Q. In that survey did you go around the boundaries of the land?

A. Yes, sir.

85 Q. Was there any fence around the land?

A. Yes, sir; there was a fence.

Q. What kind of fence?

A. Stone fence, sod fence and barbed wire.

Q. What part of that land, if any, did not have a fence around it?

A. I cannot say how much of it was not fenced. There was

quite a portion of one side of it where it was absolutely unnecessary to have a fence to keep cattle in.

Q. All places on the land where it was possible for cattle to stray there was a fence?

A. Not at the time we were surveying; I do not think there was a fence at all those places where this new road cuts through. I do not think it was closed at the time we made the survey, but a year previous, after the new road was built, bars were placed in the road.

Q. In all places except where the new road runs and where the land was steep it was shut in by fence?

A. Yes, sir.

JUDGE:

Q. You do not mean to state that that fence is cattle proof at the present time?

A. No, it is not.

Mr. HAUSSERMANN:

Q. Referring to the question as to why the fence was not cattle proof—do you know why the fence was not kept cattle proof?

86 A. No, sir; I do not know the reason why it is not kept up. I know at the time they put the bars in the road they were urged to take the bars out of the road.

Q. By whom?

A. I am quite positive by Governor Whitmarsh. At any rate that was the general talk—that the bars must come down because it was impossible to go over it with a team and wagon—there was some talk at that time of using the road for that purpose.

Q. Then, of course, if the Government would not permit a fence maintained at either end of the road there was no need of keeping up a fence at other points, was there?

A. I would so imagine.

Q. Did you learn from the natives, or other sources, upon your arrival here, to whom that particular tract belonged—that is, by hearsay?

A. Yes, sir; I was told that the piece of land belonged to an Igorrote here.

Q. Do you know his name?

A. I did not at that time.

Q. Have you learned since to whom they referred?

A. Yes, sir; Mateo Cariño.

Q. Did that seem to be the general understanding of the people of this vicinity—I mean the Igorrotes—that Mateo Cariño owned that land?

A. Yes, sir.

Q. Do you know any person, Igorrote or otherwise, who questioned the ownership of Mateo Cariño, other than the military authorities and the Civil Government, since you have been here?

A. I do not.

Q. Then from your best experience and observation, since be-

coming a resident of this province, the only persons who
87 questioned the ownership of Mateo Cariño to that particular tract of property was the Military and Civil Governments?

A. To the best of my knowledge.

Q. During the time you were here was any person other than Cariño in possession of that tract of land, other than the possession taken by the military and civil authorities?

A. Different persons have squatted on the ground, I believe. I understand that Mr. Reavis was there for a time and I lived there for a time and there were a couple of prospectors there also. Mateo Cariño is the only person who has been in possession of the land.

Q. So far as you know, as soon as those persons squatted there learned of the true situation they left the land?

A. Yes, sir.

Q. This possession that has been taken of a part of the land by the military authorities and another part of the civil authorities, was taken after you arrived in this province?

A. Yes, sir.

Q. When you first knew this land Mateo Cariño was in the open, exclusive and notorious possession of that land so far as you know?

A. Yes, sir.

Q. It was so understood and recognized by the Igorrote natives in this neighborhood?

A. That is my idea of it.

Mr. PAREDES:

Q. What possession is that to which you refer as having been taken by the military and civil authorities?

A. I have understood they were taking it as a military reservation.

88 Q. When they were making this reservation do you know whether Mateo Cariño made any objection or any complaint against it?

A. I do not know what Mateo Cariño did in the matter.

Q. You stated that you assisted in the survey of this property by the engineer. Can you state how far the property is from the town of Baguio in a direct line?

A. Between a mile and a quarter and a mile and a half.

Q. How many kilometers would that equal?

A. I do not know.

Q. Do you know the house where Mateo Cariño lives in Baguio?

A. I do.

Q. From the land in question to this house would there be a distance of the mile and a half you mentioned?

A. About that.

Testimony of Mr. C. L. Simson, Found on Pages 83 to 84.

Mr. C. L. SIMSON, resident of Manila, age 45, occupation confectioner, being duly sworn testified as follows:

Mr. HAUSSERMANN:

Q. Did you assist in the survey of this tract of land which Mateo Cariño claims and is now attempting to register—the survey which was made by Mr. Davies?
A. I did.
Q. What part did you take in the work?
A. I carried the rear pole.
Q. In that survey did you go around the boundary of the land?
A. Yes, sir.
Q. Was there an enclosure around the land when you surveyed it?
A. There was.
89 Q. What kind of fence?
A. Stone, sod and barbed wire.
Q. What parts of the tract, if any, did not have a fence around it when you made the survey?
A. There were several places which did not have any fence.
Q. How about the new road which crosses it?
A. There was no fence at all there.
Q. According to your best judgment, Mr. Simson, what proportion of the boundary of that land did not have an artificial fence there?
A. Probably one-tenth of the whole circumference.
Q. And was there any part of that land there, other than the new road, that passed through the land, that did not have an artificial fence at that time, except the bluff?
A. I think not. There was part of the barbed wire fence down—the distance between two posts.
Q. That part which you called a bluff—where there was no artificial fence—was that bluff sufficiently high to prevent cattle from going out at that point.
A. I should think so.

Mr. PAREDES:

Q. When did you help in the survey of this land?
A. The latter part of last April or in May.
Q. Do you know the house where Mateo Cariño lives in Baguio?
A. I do.
Q. How far is this land from that house?
A. I am a poor judge at distances but I should say from a mile to a mile and a half.
Q. Did you see any cattle on the land?
A. I do not think I did.
90 Q. How many days were you making that survey?
A. Three or four days.

Mr, Haussermann here stated that he had four other witnesses—

Igorrotes—who would testify that they have understood for many years that this land belonged to Mateo; that he had a fence around it and had cattle there. He inquired whether the representative of the Government would, in order to save time, concede that they would so testify. Understanding as follows was had between the parties; It was conceded by the representative of the Attorney General that four Igorrotes—witnesses present on behalf of the applicant—would, if presented, testify that Mateo Cariño had been in possession of the land in question since the death of his father until the revolution against Spain.

Testimony of Mr. M. A. Clarke, Found on Page- 84 *to* 89, *Inclusive.*

Mr. M. A. CLARKE, 35 years of age, occupation confectioner, residence Manila, being duly sworn testified as follows:

Mr. HAUSSERMANN:

Q. When did you first arrive in Baguio province?

A. In June 1900.

Q. When did you first become acquainted with the land claimed by Mateo Cariño, which he now seeks to have registered in this Court?

A. I passed through it in June, 1900.

Q. For what purpose did you come to Benguet province at that time?

91 A. I had sent some prospectors up here about February of the same year and they had reported favorably on some prospects and I came up to see them. They had also reported that there was a fine climate here and some fine land, etc.

Q. Did you make any inquiries at the time you first arrived here and first saw this land, as to who was the owner?

A. Yes, sir; I inquired who owned that land. It was pointed out as a very nice piece of land. They said it was owned by some native. I instructed my men who stayed here to look it up and see who owned it.

Q. When did you learn that Mateo Cariño owned the land?

A. On the next visit the party in question made to Manila, some months afterward in 1900.

Q. When you first saw or noticed the land in June, 1900, did you notice whether or not it was enclosed?

A. Yes, sir; there was a fence—I do not know if it was all around it at that time but there was a gate and bars we had to pass through in going toward Loachan?

Q. Were there many cattle on the land at that time?

A. Yes, sir; cows and horses.

Q. Was any part of the land under cultivation?

A. I did not look it up at all; I do not know.

Q. At that time—June 1900—was the new road in there?

A. No, sir.

Q. Who was Governor of the Province at that time?

A. Nobody.

Q. Was there any American form of Government here at that time?

A. There was some colored troops of the 48th Inf. at Trinidad.

Q. In the immediate vicinity of Baguio there were no troops?

A. No, sir.

92 Q. No form of American Government?

A. No, sir.

Q. When did you first meet Mateo Cariño?

A. I never met him until I went to buy his land from him.

Q. When was that?

A. That was in 1902.

Q. Are you sure it was 1902?

A. I cannot state positively now, just what time it was.

Q. Did you see Mateo or have any talk or conversation with him respecting this land before making the agreement for purchase?

A. No, sir; I did not know him and do not know as I had ever seen him until I talked with him about the purchase of the land.

Q. Who acted as your interpreter in the conversation between yourself and Mateo?

A. I think he was Secretary, at the time, for the Governor.

Q. How long did it take you to secure his agreement to the sale?

A. About six hours, I think,

Q. Was there an agreement in writing drawn up at that time?

A. Immediately after our conversation and a decision what we would do, the papers were drawn up at once.

Q. By whom?

A. By Mr. Sobral, a notary here. I want to say the reason I did not meet Cariño before that was because I didn't want him to know I was after his land at all; I got my information and when I was ready I went to see him. Usually if they know an American is after their land they ask a price which is unreasonable. When I went to him I settled the business before I left.

Q. How did you learn that Mateo Cariño was the owner of the land?

A. Through Mr. Pulver—he found out for me.

93 Q. I invite your attention to that part of Mr. Pack's letter to the Clerk of this court, in which he says, "Now, at this time comes a certain Mr. Clarke, who, taking advantage of the native custom of allot-ing lands to different chiefs, has this Igorrote make a claim of possession to this property, which, because the military desire it, has become suddenly, in his mind, valuable." State whether or not you did advise him in any way, or suggest to Mateo Cariño to have his land registered or to make a claim of possession?

A. I never had spoken to Mateo Cariño, nor had I ever sent any one to him to influence him in any way to get a title to the land.

Q. Did you, or any person for you, *had* anything to do or in any way suggest or advise Mateo Cariño to commence proceedings in San Fernando to secure a possessory information title to this land?

A. No, sir.

Q. So far as you know, Mateo Cariño took steps to have his

possessory title obtained before he knew there was such a person as you?

A. I do not think he knew me. I would like to add that when I found out that the land was owned by an Igorrote there had been a Mr. McDonald and others who had tried to claim or homested the property. In view of the fact that there was a fence around it and it was stocked, I told Pulver that it was useless to go into this man's land and try to homestead it, and I then learned that he did not have any papers or title deeds, and so I waited and at the time he took these out I was down in Singapore and when I got back to Manila I was informed that he had received his possessory information and I came up to Baguio immediately.

94 Q. During all that time had you had any conversation with Mateo concerning the purchase of this land?

A. I had never met him or any member of his family, and I did not know that the military had any idea of establishing a reservation there when I started in on this deal.

Q. Is it not a fact that after you made up your mind to purchase this land, and subsequently learned that the military were going to reserve a part of it for a reservation, that you did your *be* best to try to persuade the military not to take part of that land for a reservation?

A. I put a man on the land after I concluded these arrangements with Cariño, and the military authorities ordered him off—the Lieutenant in charge here—so I told him to remain until they gave him written notice to vacate, which he did.

Q. Under your contract of sale or option did Mateo agree to give you possession at once?

A. Yes, sir; I also gave him permission to keep cattle on it, but the road had been cut through and he could not. He also asked me to stop the people cutting wood, but I could not.

Q. Has the value of that land enhanced very materially since you entered into that agreement with Cariño?

A. Yes, sir.

Q. Has the value enhanced since the filing of these papers?

A. It has been increasing all the time as the work on the road and the prospective improvements intended here by the Civil Government were made public. The land all over this place has enhanced in value.

Q. Do you know what the value of land is in this immediate vicinity, and also in the vicinity of this tract of land?

A. I have just heard the value. I had nothing to sell but I have heard that it was worth $100 an acre, gold.

95 Q. Do you consider $100 gold per acre a fair and reasonable value of the land in question here at this time?

A. All of that land may not be worth that exactly—some of it may be worth more, that is, on the Government road. The fact that that Government road passes through this land makes the land on either side, perhaps, more valuable than that, while other spots may not be that valuable.

Q. Would it average a value of $100.

A. I think so. I bought some $100 worth of fruit trees which I expected to plant on some part of the place, which did not arrive in very good condition, but it was my intention to improve the place and experiment with the fruits. My idea in doing that was to improve it, and, of course, sell parts of it.

Q. Your contract is on file in the records of the province?

A. Yes, sir.

Testimony of Mateo Cariño, being Recalled, Found on Page 89 to 91, Inclusive.

MATEO CARIÑO, being recalled to the witness stand, testified as follows:

Mr. HAUSSERMANN:

Q. During the Spanish times is it not a fact that the Spanish officers who were in charge of this province, knew that you were the owner of this particular land all that time, and recognized you as the owner?

A. Yes, sir; they recognized me as the owner because I had my cattle there.

96 Mr. PAREDES:

Q. Who were those officials of the Spanish Government who recognized you as the owner of that land?

A. Commandante Billena.

Q. Was he commander of this district then?

A. Yes, sir.

Mr. HAUSSERMANN:

Q. Did any other Spanish officials before or after Comandante Billena recognize you as the owner of this land?

A. Señor Billena asked me if this land was my property. I answered him in the affirmative. There were then two gates.

Q. Did you know, or did any of the Spanish officials inform you of the Royal Decree of Maria Cristina, issued February 13, 1894, concerning the manner in which the inhabitants of these Islands could obtain a paper title to their lands?

A. Yes, sir; I was informed of that Royal Decree.

Q. Why did you not obtain a title under that Royal Decree?

A. The officials here informed me that that was not compulsory; that it could be requested or not; that it was all the same.

Q. You were informed, by that officer, that if you did not take out paper title within one year that the Government would take the land away from you?

A. No, sir.

Q. Did you believe the Spanish officials who were in charge of this district, that it was not necessary for you to take out papers—did you rely upon that?

A. I believed them because they said if it is my property nobody would take it away.

possessory title obtained before he knew there was such a person as you?

A. I do not think he knew me. I would like to add that when I found out that the land was owned by an Igorrote there had been a Mr. McDonald and others who had tried to claim or homested the property. In view of the fact that there was a fence around it and it was stocked, I told Pulver that it was useless to go into this man's land and try to homestead it, and I then learned that he did not have any papers or title deeds, and so I waited and at the time he took these out I was down in Singapore and when I got back to Manila I was informed that he had received his possessory information and I came up to Baguio immediately.

94 Q. During all that time had you had any conversation with Mateo concerning the purchase of this land?

A. I had never met him or any member of his family, and I did not know that the military had any idea of establishing a reservation there when I started in on this deal.

Q. Is it not a fact that after you made up your mind to purchase this land, and subsequently learned that the military were going to reserve a part of it for a reservation, that you did your *be* best to try to persuade the military not to take part of that land for a reservation?

A. I put a man on the land after I concluded these arrangements with Cariño, and the military authorities ordered him off—the Lieutenant in charge here—so I told him to remain until they gave him written notice to vacate, which he did.

Q. Under your contract of sale or option did Mateo agree to give you possession at once?

A. Yes, sir; I also gave him permission to keep cattle on it, but the road had been cut through and he could not. He also asked me to stop the people cutting wood, but I could not.

Q. Has the value of that land enhanced very materially since you entered into that agreement with Cariño?

A. Yes, sir.

Q. Has the value enhanced since the filing of these papers?

A. It has been increasing all the time as the work on the road and the prospective improvements intended here by the Civil Government were made public. The land all over this place has enhanced in value.

Q. Do you know what the value of land is in this immediate vicinity, and also in the vicinity of this tract of land?

A. I have just heard the value. I had nothing to sell but I have heard that it was worth $100 an acre, gold.

95 Q. Do you consider $100 gold per acre a fair and reasonable value of the land in question here at this time?

A. All of that land may not be worth that exactly—some of it may be worth more, that is, on the Government road. The fact that that Government road passes through this land makes the land on either side, perhaps, more valuable than that, while other spots may not be that valuable.

Q. Would it average a value of $100.

A. I think so. I bought some $100 worth of fruit trees which I expected to plant on some part of the place, which did not arrive in very good condition, but it was my intention to improve the place and experiment with the fruits. My idea in doing that was to improve it, and, of course, sell parts of it.

Q. Your contract is on file in the records of the province?

A. Yes, sir.

Testimony of Mateo Cariño, being Recalled, Found on Page 89 to 91, Inclusive.

MATEO CARIÑO, being recalled to the witness stand, testified as follows:

Mr. HAUSSERMANN:

Q. During the Spanish times is it not a fact that the Spanish officers who were in charge of this province, knew that you were the owner of this particular land all that time, and recognized you as the owner?

A. Yes, sir; they recognized me as the owner because I had my cattle there.

96 Mr. PAREDES:

Q. Who were those officials of the Spanish Government who recognized you as the owner of that land?

A. Commandante Billena.

Q. Was he commander of this district then?

A. Yes, sir.

Mr. HAUSSERMANN:

Q. Did any other Spanish officials before or after Comandante Billena recognize you as the owner of this land?

A. Señor Billena asked me if this land was my property. I answered him in the affirmative. There were then two gates.

Q. Did you know, or did any of the Spanish officials inform you of the Royal Decree of Maria Cristina, issued February 13, 1894, concerning the manner in which the inhabitants of these Islands could obtain a paper title to their lands?

A. Yes, sir; I was informed of that Royal Decree.

Q. Why did you not obtain a title under that Royal Decree?

A. The officials here informed me that that was not compulsory; that it could be requested or not; that it was all the same.

Q. You were informed, by that officer, that if you did not take out paper title within one year that the Government would take the land away from you?

A. No, sir.

Q. Did you believe the Spanish officials who were in charge of this district, that it was not necessary for you to take out papers—did you rely upon that?

A. I believed them because they said if it is my property nobody would take it away.

97 Q. Do you remember when you learned of that Royal Decree of February 1894?

A. No; I do not remember when it was. The last Comandante, Señor Bejar, informed us that we would have to get a paper title and we gave him money.

Q. And did you pay money to the Spanish officials to secure documents?

A. Yes; to the last Comandante.

Q. And did you get your paper title that you paid for?

A. No, sir.

Q. Why not?

A. I do not know—because they went away.

Mr. PAREDES:

Q. That last commander—did he leave the province — account — revolution of Filipinos against Spain?

A. Yes, sir.

JUDGE: What were the names of the officials who told you there was no necessity to secure a paper title under the Decree of February 1894?

A. Emigdio Octaviano.

Q. What position did he hold in the Government here?

A. Clerk or escribiente.

Q. Is he not the same person who is now Provincial Secretary?

A. Yes, sir.

Q. What is he—Spanish or Filipino?

A. He is a Ilocano.

Mr. Haussermann states that he has no more testimony to offer, but wished to reserve the right to introduce any papers which he might find in Manila that would throw any light upon
98 the facts developed during the trial, and that he also wished to present the testimony of Juan Cariño, a brother of the applicant, whom he had not been able to reach, but who they were assured would come to Manila to testify.

Mr. Paredes advises that he has no further evidence to offer unless the testimony of Juan Cariño in Manila would develop new facts not yet touched upon at the hearing.

UNITED STATES OF AMERICA, *Philippine Islands:*

Court of Land Registration of the Philippine Islands.

In the Matter of Expediente No. 87. MATEO CARIÑO, Applicant.

Testimony.

The Court convened at Manila, P. I., at 3:15 P. M., on February 8, 1904, Associate Judge D. R. Williams, presiding, John W. Haussermann representing applicant, Isidro Paredes representing the Insular Government, and Lieut. J. H. Poole representing the Commanding General of the Philippine Division.

JUAN CARIÑO, fifty years of age, married, being first duly sworn, testified as follows:

99 Mr. HAUSSERMANN:

Q. Where do you live?
A. Tublay, Benguet.
Q. How long have you lived in Benguet Province?
A. I was born in Tublay.
Q. Do you know Mateo Cariño?
A. I know him.
Q. He is your brother?
A. He is my brother.
Q. What was the name of your father?
A. Pablo Cariño.
Q. What was the name of your grandfather?
A. Waule.
Q. Did your grandfather die before or after your birth?
A. He died before I was born.
Q. Do you know the land in Lubas which is claimed by Mateo Cariño and which he is now attempting to register?
A. I know it.
Q. Is that Mateo's land?
A. That is the land that was adjudicated to Mateo.
Q. From whom did Mateo receive that land?
A. From our father, Pablo Cariño.
Q. Did your grandfather own that land before your father?
A. Yes.
Q. Did that land have a fence around it?
A. Yes; it is fenced around.
Q. Was that fence around there during your father's life?
A. Since our grandfather.
Q. What was that land used for by your father, by Mateo and by your grandfather before you?

A. That land was used for planting camotes, palay and
100 for grazing stock.

Q. Did your father live on that land during his life time?
A. There our grandfather died—there were erected two houses.
Q. Who was living on the land while your father was living?
A. Our father himself was living on that land and taking care of it. At his death it passed to Mateo who inherited it.
Q. How was it passed to Mateo? What formality was gone through with when the land was given to Mateo?
A. The custom of the Igorrotes is to deliver the property verbally without any formality. There were also summoned two witnesses.
Q. Was this land delivered to Mateo in the presence of witnesses?
A. There should be witnesses at the time of delivery.
Q. Was this land delivered to Mateo in accordance with the custom of the Igorrotes at that time?
A. Yes; that land was delivered in the presence of Witnesses, and also in dedication cows and hogs were killed.
Q. How old is Mateo?

A. About 46 or 49 years old.
Q. Do you know how old you were when your father died?
A. What I know is that my father died about 31 years ago.
Q. Do you know how old your father was when he died?
A. I do not know.
Q. Was your father married when his father died?
A. Yes, sir.
Q. Was Mateo married when your father died?
A. Yes, sir; he was married.
Q. How many children did your father have before your grandfather died?
A. I think he had no children yet when our grandfather died.
101 Q. Has Mateo been in possession of that land from the time of the death of your father until now?
A. Yes, sir.
Q. And was, during all that time, said land used for grazing purposes and for cultivation purposes?
A. Yes, sir; up to this time.
Q. Do you know Mateo's father-in-law?
A. Yes, sir.
Q. Was he ever in charge of that land at Lubas?
A. He helped Mateo in taking care of that land.
Q. Do you own any land in Benguet Province?
A. Yes, sir; I have lands in Benguet also.
Q. How, during Spanish times, were the Igorrotes made acquainted with the laws of Spain in force in these Islands?
A. They called the headman of the Igorrotes, the Capitan, and told him and he told the people.
Q. Were those laws printed in the language of the Igorrotes or did the Capitan tell them to you by word of mouth?
A. There was also interpreter who interpreted it into Ilocano dialect.
Q. Were these laws told to you by word of mouth or by writing?
A. Sometimes the Capitan was called, but other times the order was sent to the Capitan and he made it known to the people verbally.
Q. Did you receive notice of the Royal Decree of 1894, concerning the manner in which the occupants of these lands could obtain a paper title to the lands that were held by them?
A. Yes, sir.
Q. Did you receive this notice in writing or by word of mouth?
102 A. I knew it through the Capitan of our town.
Q. Were you or the Igorrotes informed that if you failed to register your lands within one year after 1894, that those lands were to revert back to the King of Spain?
A. We were notified of it and in consequence many filed applications.
Q. Did you file any application?
A. Yes, sir; we were many who filed applications.
Q. Did you apply?

A. Yes, sir.

Q. Did you obtain the paper title during the Spanish times?

A. We were waiting for it but we received nothing.

Q. How many times did you apply to the Spanish officials for a paper title?

A. I applied twice; I do not know how many times the others did.

Q. Was it generally known among the Igorrotes that you and others, after applying several times for your paper titles, failed to obtain them?

A. There were many also who filed applications without obtaining anything.

Q. Do you know whether Mateo applied during the Spanish times for a paper title to this ground in Lubas?

A. Yes, sir; he filed an application.

Q. Did he file application in the time required by law?

A. After they filed the application it was stated to us not to fear anything because these lands could not be taken by other persons.

Q. Who told you that—not to be afraid?

A. The interpreter—because we could not understand what the Spaniard said.

Q. Did the interpreter purport to interpret to you what the Spaniard said?

103 A. Yes, sir; the same as we are doing this moment—you are speaking and the other gentleman is translating.

Q. Did Mateo get his paper title?

A. No; he did not obtain title but he spent lots of money in filing applications.

Q. Was it generally recognized among the Igorrotes, during Spanish times, that the lands at Lubas belonged to Mateo?

A. Yes; it was made known in the town; all the people of the town knew that that land belonged to Mateo.

Q. Did the Spanish officials during Spanish times recognize that land as belonging to Mateo?

A. Yes, sir; every comandante knew that that land belonged to Mateo Cariño, because in those times we applied for a title to those lands which we could not obtain.

Cross-examination by Senor PAREDES:

Q. Who drafted for you the application to obtain a written title?

A. The clerk of the comandante.

Q. State tha name of that clerk?

A. Jose Madaran, now deceased.

Q. How many applications of that kind did Jose Madaran draft for you?

A. Two; I do not know how many he drafted for others.

Q. Do you know who drafted the application of Mateo Cariño to obtain title for the land in Lubas?

A. I do not know.

Q. Did Mateo Cariño file his application the same time as you did or before or after?

A. At first we filed our applications together. When I filed my second application I was alone.

104 Q. With whom did you file your application?

A. Comandante Martinez.

Q. In what year did you file your application with Comandante Martinez?

A. I do not know the year.

Q. Did Mateo Cariño file his application before the same Comandante ?

A. Yes, sir; at first we filed our applications with Comandante Martinez.

Q. With whom did you file your second application?

A. With Comandante Bejar.

Q. In what year?

A. Near the insurrection.

Q. Two years before the insurrection?

A. A year before the rebellion.

Q. Do you remember who the Filipino employés in the Province of Benguet were at the time you filed your application?

A. When I filed my second application I saw there Emidio Octaviano and Toribio Valdez.

Q. Did you know then an employé of that government a certain Alejandro Cauli?

A. I did not know him.

Q. Do you remember of Marcos Madaran was an employé of that office?

A. Yes; I know him.

Q. Was he employed in that office when you filed your application?

A. I do not know because sometimes I saw Marcos Madaran there and others not.

Q. For how many parcels of land did your brother Mateo Cariño file application?

105 A. Those that I know are Duyo, Lubas and the one where his house is erected.

Q. Then he filed three applications?

A. Yes, sir.

Q. Did he obtain any of the titles applied for?

A. No, sir.

Q. Do you know if Mateo Cariño applied for possessory proceedings for the land in Lubas?

A. He didn't tell me anything about applying for possessory proceedings.

Q. None of those who applied for written title from the Government obtained such title in Spanish times?

A. None.

Q. Why did you file two applications?

A. Because those orders were published twice.

Q. You have stated that Mateo Cariño spent a great deal of money to obtain a written title to his land—is it not so?

A. I suppose he spent money although I have not asked him—because they were constantly asking for money from Mateo.

Q. Who was asking for money from Mateo Cariño?
A. The clerk asked for the money by order of the Comandante, and placed the money on the Comandante's desk.
Q. You saw Mateo Cariño give money to the Clerk?
A. I did not see it but I suppose he gave money the same as others.
Q. You stated before that Mateo Cariño filed his application for written title within the time required by law. State now what term that was?
A. I do not remember the date, but once that order was published we filed our applications immediately.
Q. Were you present when the Lubas land was delivered to Mateo?
A. Yes, sir; we were present when our father delivered
106 that land to Mateo.
Q. Why do you know that Mateo Cariño has been in possession of the land in question since your father's death up to this time?
A. I know it because our father delivered that property to Mateo.
Q. You know it for that reason only.
A. Yes, sir.
Q. Was not the father-in-law of Mateo Cariño the owner of the Lubas land?
A. Our grandfather was the owner of that land.
Q. Was not that land in the hands of the father-in-law of Mateo?
A. The father-in-law of Mateo helped him to take care of that land.
Q. Do you know the new road built through the land in question?
A. Yes, I know it.
Q. When was that road opened?
A. In Spanish times that road was narrow and small; since the Americans came that road was widened.
Q. Then the new road was built on the trail by widening it?
A. Yes, sir; during the American Government this road was made wider.
Q. What property was adjudicated to you on account of your father's death?
A. According to our custom, we divided lands and cattle.
Q. When did you make the division?
A. Before our father's death.
Q. Do you know the house where Mateo Cariño lives in Baguio?
A. I do.
Q. How far is that house from the land in question—in a straight line?
107 A. According to my calculation it is more than two and less than three kilometers.
Q. Has Mateo Cariño ever lived on the land in question?
A. No; he only planted camotes, palay, and used it for grazing purposes.

Q. And the father-in-law of Mateo Cariño did he live on that land?

A. No, sir.

Q. How much money did you spend in applying to obtain title for your land?

A. When I first filed my application I spent twenty pesos I delivered to Comandante Martinez, and the other twenty-four pesos to Comandante Bejar.

Q. Who was present when you deliver these amounts?

A. Toribio Valdez and Miguel Picar.

Lieut. Poole requests that the contract regarding Mr. Clarke's option to purchase the land in question, which was read in part during the hearing in Baguio, be introduced in full in the record. All parties agreed. Mr. Haussermann requested that the record show that said contract is introduced as evidence on the part of the military authorities.

Mr. Haussermann stated that he had not been able to discover any documents in Manila referring to the land in controversy, and wished to reserve the right to present any such documents he should discover before decree was entered. The court stated that should any such documents be found they would be admitted after first being submitted to the representative of the Attorney General and receiving his approval.

Señor Paredes requested a continuance of the case until such time as the Court adjourned to Baguio, in order to introduce evi-
dence in rebuttal of the testimony given by the last two wit-
108 nesses—Mateo and Juan Cariño. The Court held that Juan Cariño offered no testimony different in character from that offered by the witnesses in Baguio, at which time no statement was made by Señor Pardes intimating that he wished to rebut the testimony last offered by Mateo Cariño, or the testimony to be presented by Juan Cariño, except the latter be along new lines. Had such intimation been made in Baguio the testimony could have been taken before adjournment from Baguio to Manila. The petition for a continuance of the case was, therefore, denied by the Court, and the case declared closed, to which ruling exception was taken by Señor Paredes.

The parties expressed a desire to present their arguments in the case in writing. The applicant was given five days, counting from time the reporter's notes were transcribed and delivered to him, to present his argument; and the representative of the Civil and Mili-
tary Governments five days thereafter in which to reply.

109 The foregoing testimony and proceedings before the Court of Land Registration having been admitted, the trial of the case before the Court of First Instance of the Province of Benguet proceeded as follows:

Bernardo de la Pena and Igorrote Emilio were duly sworn by the Court as Interpreters.

MATEO CARIÑO being duly sworn, testified as follows, in behalf of the Applicant.

Q. Do you remember the Royal Order of February 13th, 1894, relating to the registration of land and obtaining of written titles thereto, in this Province?

A. Yes.

Q. State whether or not you made application after that Order was promulgated in this Province, for written title to your property, which you are now attempting to have registered under and in pursuance of Act 496.

110 A. In the time of Martinez as Spanish Governor of the Province of Benguet, the Order relating to the registration of land was published in this Province, but at that time I could not make my application. Under the Spanish Government I did not make my application for title of registration; no application was made.

Q. Did you apply to the Comandante Martinez for a paper title to your land?

A. Yes; I presented the application for a title to my land.

Q. To what Governor?

A. Sigñor Governor Martinez.

Q. State whether or not you obtained the paper title which you applied for.

A. No; I could not obtain it.

Q. Did you apply to any other Governor besides Martinez for your title after that?

A. Yes; I presented again my application before Sigñor Antonio Bejar.

Q. Did you obtain the title from Bejar?

A. No; because a short time after I presented my application, the revolutionary period commenced.

Q. When you made your application to Martinez, did you present all your witnesses to Martinez?

A. Yes; when I presented my application, there were very many people present there.

Q. Were people present there to testify about you being the owner of that property?

Mr. BASSETT: I object to the question as leading.

COURT: The objection to that question is sustained, and failing to elicit an answer from this witness, he being an Igorrote, a leading question to a certain extent will be permitted.

111 By the COURT:

Q. What were those people present there for?

A. Yes; these people were there at the same time for the purpose of presenting their application.

Q. Who, if any one, went with you at that time to Governor Martinez to tell Governor Martinez about your claim to the land that you were asking for?

A. Piraso, Pukay, Bitodio, Capitan Colas went with me to testify as witnesses that I owned land.

Q. Do you remember whether your brother, Juan Cariño, went with you or not?

A. Yes; Juan Cariño went with me, because I happened to meet him at the trail leading from Tublay to Trinidad.

Q. Do you know why you did not obtain that paper title?

A. Yes.

Q. Why?

A. No; because Governor Martinez, at the same time that we presented the petition to him told us that it was not necessary for us to have any document, because the land- belonged to us, and no one could usurp them or take them from us.

Q. Why did you apply after that to Comandante Bejar?

A. Because Antonio Bejar wanted to enforce that law and he told us to present our applications for a document for our land.

Q. State whether or not you paid any money to Bejar when you made that application to Bejar?

A. Yes; I paid him forty pesos.

Q. Did you pay any money to Martinez?

A. No.

Cross-examination.

Mr. BASSETT:

Q. What was the other name of the Comandante Martinez; what was his first name?

112

A. José Martinez.

Q. Who was the Comandante who followed him?

A. Comandante Lanza.

Q. You stated that at the time the Royal Order was published, you did not have an opportunity to make an application; why did you not have an opportunity to make an application for the adjustment of your land?

A. I stated that I presented my application to Comandante Martinez.

Q. How long had Martinez been Comandante of this Province when you first presented your application?

A. I am not able to fix the time because I do not know how to reckon.

Q. Was your application in writing?

A. In handwriting.

Q. Who wrote it?

A. Ambion, Secretary of Baguio.

Q. What did your application contain?

A. The application contained the following—"The owner of the land comes to you."

Mr. BASSETT: Now, your Honor, I would like to make a motion to strike out all testimony given by Mateo Cariño in his examination in chief, on the ground that it has not been shown that this application is not in existence and for that reason secondary evidence cannot be introduced.

COURT: Motion to strike out is overruled.

Mr. BASSETT: Exception.

Q. Can you read and write?

A. No.

113 Q. How do you know that the document you presented to Governor Martinez was an application for the adjustment of your land as you testified?

A. I knew the contents of the paper by means of the Secretary's interpretation to me.

Q. Did you personally present the paper to Governor Martinez with your own hand?

A. Yes.

Q. That was the first application that you presented?

A. Yes.

Q. Did you pay Governor Martinez a fee?

A. No.

Q. You testified that Jose Cariño was with you at the time you presented your petition did you not?

A. Yes.

Q. Did Juan pay Governor Martinez a fee?

A. Yes; Juan paid the fee to Governor Martinez.

Q. Why did you not pay a fee if Juan did?

A. The Governor said to us, "The people who are living here in Baguio, will pay at the last."

Q. Where were you living at the time?

A. In the house situated where Mr. Whitmarsh's store is now.

Q. That house was not upon the land which you are attempting to register, was it?

A. The old house was not upon the land which I decided to register.

Q. Where was Juan Cariño living at that time?

A. In Tublay.

Q. Who was living on the land that you are now attempting to register at the time you made your application to Comandante Martinez?

114 A. The house of Bangley and some part was planted with camotes and pasture for cows and horses.

Q. Who was living in the house at that time?

A. Bangley was living there.

Q. Who is Bangley?

A. Grandfather.

Q. Your grandfather?

A. Yes.

Q. Who was living in the house at the time that Martinez was Comandante?

A. At the time of Martinez that house was rotten and empty.

Q. Who was the last person who lived in the house of your grandfather?

A. I do not know who lived in that house besides my grandfather.

Q. Did your father ever live in that house?

A. I do not know if my father lived there because he only has shown me the house where my grandfather used to live.

Q. In what house do you remember that your father lived?
A. My father lived in Tublay after his marriage.
Q. Where were you born?
A. Tublay.
Q. Where was your father born?
A. My father was born in Trinidad because he has two houses; one in Trinidad and in Lubas.
Q. Who had two houses?
A. Bangley, my grandfather.
Q. How many hectares are contained in the land which you are now trying to register?
A. I do not remember now—at the time and for a short time after my land was surveyed, I knew, but I do not now remember.
115 Q. When and by whom was your land first surveyed?
A. In the time of the Americans.
Q. Who was Governor at the time it was measured first, in the time of the Americans?
A. Sigñor Whitmarsh.
Q. Who measured the land at that time?
A. Sigñor Razon.
Q. Did Mr. Clarke employ him to measure the land?
A. No.
Q. Who did employ him to measure the land?
A. I myself, employed him.
Q. Why did you have your land surveyed at this time by Sigñor Razon?
A. Because Mr. Whitmarsh ordered that all the private lands in the province be measured.
Q. When was the next time your land was surveyed?
A. It was surveyed again at the time of Governor Pack.
Q. Who surveyed it in Governor Pack's time?
A. It was an American whose name I do not know.
Q. Did Mr. Clark have your land surveyed by an American?
A. Yes.
Q. Who pointed out the boundaries of your land to Surveyor Razon?
A. I, myself.
Q. Who pointed out the boundaries of your land to the American employed by Mr. Clark?
A. I, myself.
Q. Did you indicate, or did you point out the same boundaries to Sigñor Razon and to the American employed by Mr. Clark?
A. Yes; the same, because we followed the fence.
116 Q. This land is fenced then, is it?
A. Yes, this land is fenced.
Q. How is it fenced—by what kind of fence?
A. A fence of earth with some wood and stone.
Q. Do these fences extend all the way around the land that you are now claiming?
A. Yes.
Q. By whom were these fences built?

A. By Bangley.

Q. Your grandfather Bangley then was the first person who built the earth fences around this land?

A. Yes.

Q. Are there earth fences on this land other than that fence which goes around the boundary?

A. No other fence but the fence around the land.

Q. Have there been other fences since you can remember than the fence which goes around the land?

A. No.

Q. Are you sure that an earth fence exists all the way around your land?

A. The fence around the land; they are not all earth but some parts are stone and some part wood, and this wood is already rotten.

Q. Now, I want to know at what places on the land the fences are earth.

A. The eastern part is where the earth fence is.

Q. Do you know where the Ipit river is?

A. I know.

Q. Is there an earth fence running along by the side of the Ipit river ?

117 A. There is earth fence by the river and there is also stone fence by the river.

Q. What do you consider your boundary—the river or the earth and stone fences which run beside the Ipit river?

A. The fence runs out rightangles to the river—along the river there is no fence.

Q. Where there is no fence along the river—you consider the river your boundary, do you?

A. Yes, I consider the river as boundary.

Q. How many fathoms long is the earth fence which runs at right-angles to the river?

A. I do not know how many fathoms, but it is a long distance.

Q. Can you tell by pointing out objects?

A. About equal to the distance from the Chinaman's over to the stable of the quartel of the Philippine constabulary.

Q. Is the earth fence that you refer to as being at right angles with the river, the fence that runs along beside the army post, where the army stables are on the military reservation?

A. That is the fence to which I refer.

Q. Do you know where the Lubas river is?

A. Yes, I know.

Q. Do you consider that the Lubas river is your boundary from the road to the earth fence at the top of the hill?

A. No, because there is a fence.

Q. How long is the fence that goes up the hill from the road?

A. A long distance.

Q. I mean the fence that leaves the road near the mill and goes up toward the military reservation?

A. There is fence there, but it is short.

Q. Now, from the end of that fence, that short fence, to the

point where the next earth fence begins, what do you con-
118 sider the boundary of your land?

A. I consider the bank of the river as boundary.

Q. The bank of the Lubas river?

A. Yes, the Lubas river.

Q. There is an earth fence which goes at right angles to the Lubas river or up toward the hill to the buildings on the military reservation, is there not?

A. There is no fence.

Q. How many earth fences are between your land and the land of Piraso?

A. Two earth fences.

Q. What do you consider the boundary of your land between the end of those two earth fences; from one earth fence to another?

A. The river.

Q. Lubas river?

A. Yes; because the fence goes to the river.

Q. Do you know where the district of Lauacan is?

A. Yes.

Q. Is there an earth fence or a stone fence or a wood fence between your land and Lauacan?

A. There is a stone fence.

Q. How long is the stone fence between your land and Lauacan?

A. The distance equal from here to my house.

Q. Is that fence a natural fence or one which has been constructed by some one?

A. That fence was made by grandfather.

Q. Is there an earth fence between your land and Lauacan other than a stone fence?

A. Yes; there is also an earth fence.

Q. How long is the earth fence?

A. Same distance as from here to the hotel.

119 Q. Was the earth fence also constructed by your grandfather?

A. Yes.

Q. Are the five fences that you have mentioned on the side of the road where the military reservation is, the only earth and stone fences which have been constructed by men?

A. They are the only fences.

Q. Do you know where the mill is that belongs to Mr. Wagner?

A. Yes; I know.

Q. Is that mill situated upon the land claimed by you?

A. The mill is on the boundary line.

Q. The river is the boundary at the point where the mill is?

A. Yes.

Q. Then, if the mill is situated in the side of the river opposite from your land, it is not on your land?

A. It is not.

Q. Who constructed the earth fence that is on the opposite side of the mill on your land?

A. Mangos.

Q. Is Mangos a relative of yours?
A. No.
Q. Is there a fence—an earth fence between the road and the mill which bounds your land?
A. Yes; there is a fence.
Q. Who built that fence?
A. Mangos.
Q. What is the name of the river on which the mill is situated?
A. Lubas.
Q. Is there a fence between your land and the land of Pias near the mill?
A. Yes.
120 Q. How long is that fence?
A. Just like the distance from here to my house.
Q. Who built that fence?
A. My grandfather.
Q. Is there a fence between your land and the land of Pias near Lauacan—an earth fence or a stone fence?
A. Yes; there are fences of stone and also earth in different parts.
Q. How many fences between your land and the land of Pias other than the earth fence you have just mentioned near the mill and which you said was built by your grandfather?
A. There is only one fence between my land and Pias which has been made by my ancestor.
Q. Who built the other fences between your land and Pias which you have just mentioned?
A. As I said, that fence has been constructed by my grandfather.
Q. Well, is there only one fence between your land and the land of Pias?
A. I have only there one fence but there are some other fences outside of my land.
Q. Outside of your land?
A. Yes.
Q. Who built those fences outside of your land?

Mr. HAUSSERMANN: Objected to as immaterial.
COURT: Objection sustained.

Q. What is the entire length of your fence between your land and the land of Pias constructed by your grandfather or by any of your ancestors?
A. This fence is about equal to the distance from here to my house.
121 Q. And that is the only fence constructed by your grandfather or any of your ancestors on the boundary between your land and Pias?
A. No; because all the fences around that land were made by my grandfather.
Q. What other fences than the one you have just mentioned between your land and the land of Pias was constructed by your grandfather?

Mr. HAUSSERMANN: Objected to because it is not intelligent.

COURT: Objection sustained.

Q. Who constructed the fences between your land and Piraso's land?

A. I have told that that fence was made by my grandfather.

Q. Well, there are two fences, are there not, between your land and the land of Piraso?

A. Only one.

Q. I mean earth fences between your land and the land of Piraso——

A. Only one.

Q. Have you repaired the fence between your land and the land of Piraso at any time during your life time?

A. Yes; I have repaired the fence between my land and Piraso's.

Q. Where was the wire fence that you spoke of in your examination before Judge Williams?

A. I took the wire fence away because the people were stealing it.

Q. Where was it before you took it away?

A. It was near the quarters of the scouts.

Q. Why did you put a wire fence there?

A. To keep out the cattle.

Q. When did you put it there?

A. In Spanish times.

Q. Was there not an earth fence at the same place where you put your wire fence?

122 A. Yes; there was an earth fence but the animals broke it down.

Q. Is there any wire fence around your land at present?

A. Yes; there is a wire fence now between Pias and my land; and the wooden fence that was there has been burnt up and I changed it into wire.

Q. Have you any other land than the land in question?

A. Yes; I own land where my house is situated.

Q. Have you a paper title to that land?

A. No.

Q. What did you mean, in your testimony before the Judge of the Court of Land Registration when you said in answer to the question, "Have you other property than that in question?" "Yes, the land where my house it, but the documents of this land are already completed."

A. There were some papers made but the authorities said those papers were useless.

Q. Who were the authorities who told you that your documents to the house where you live were useless?

A. The former Judge who came here from San Fernando who came here to take my testimony told me those papers were useless.

Q. Did you take out papers in San Fernando on both pieces of your land, the land at Lubas and the land where your house is, at the same time?

A. Yes; at the same time.

Q. Did you grow camotes on the land in Lubas?

A. Yes; I grew camotes during the Spanish times.

Q. Now how large or what part of the land was planted in camotes?

A. Very small part and this was situated between the quarters of the scouts and the new road.

Q. How large a part—indicate how much land was planted in camotes?

123 A. About one hectare.

Q. On this hectare on which you have had camotes planted, for how many years did they grow on that particular ground?

A. We got camotes twice a year.

Q. For how many years?

A. Two years.

Q. Did you not say your father lived in Tublay?

A. Yes.

Q. When you were asked the question by Mr. Haussermann before Judge Williams when they were up here before, "did your father own this land for more than thirty years" and you answered "I do not know; he was in possession a long time because he lived on the land and built his house there—you did not mean your father but your grandfather?

A. What I mean is my grandfather.

Q. How long has the wire fence between your land or the land claimed by you and the land of Pias been where it is now?

A. During the American times that wire fence was put there.

Q. Who was the Governor at the time you put the fence where it is now?

A. Governor Pack.

Q. Did you know Mr. Clark at that time?

A. Yes.

Q. You are called Capitan Mateo are you not?

A. Yes.

Q. Why are you called Capitan?

A. Because during the Spanish Government I was Presidente.

Q. Are you what is understood to be among the Igorrotes as a buckman?

A. Yes.

Q. What is a buckman?

A. A buckman is the name of a certain person or persons

124 who live comfortably.

Q. You have a son by the name of Sioco have you not?

A. Yes.

Q. Is Sioco acquainted with the land you are trying to register?

A. Yes.

Q. Was he with you at the time you pointed out the boundaries of this land to the American surveyor employed by Mr. Clark?

A. Yes.

Q. This Sioco knows, does he not, the places that were marked as monuments, or I mean knows the monuments used by the surveyor in running the lines?

A. I do not know if he has forgotten.

Redirect examination.

Mr. HAUSSERMANN:

Q. Did your grandfather die before or after you were born?
A. I was not born yet when my grandfather died.
Q. You mean your grandfather Bangley?
A. Yes.
Q. Do you know from whom your grandfather received that land?

Mr. BASSETT: Object to that question as incompetent.
COURT: Objection sustained.
Mr. HAUSSERMANN: Exception.

Q. Do you know the tradition of your family in reference to the source from which that land was obtained by the family?

BASSETT: Object to the question as incompetent.
COURT: Objection overruled.
BASSETT: Exception.

A. My father gave to me that land.
Q. Did your father tell you from whom he received it?

125 Mr. BASSETT: Objection.
COURT: Objection sustained.

Q. Do you know what tradition is in your family in reference to how your family acquired that land?

Mr. BASSETT: Objected to on the ground of incompetency.
COURT: Objection sustained.

A. I only know that my father acquired that land from my grandfather.
Q. When the Americans arrived in this province, state whether or not there was a trail leading through the land in question from here to Lauacan?

Mr. BASSETT: Objected to as leading.
COURT: Objection overruled.

A. Yes; there was a trail which was built during the Spanish times—a bridle trail about so wide (witness indicating space of from two and a half to three feet).
Q. State whether or not the American Government built a road through that land since the American occupation.
A. Yes; at the time of Governor Whitmarsh that wide trail has been built through my land.
Q. Where is the new road in reference to the old trail?
A. The new trail almost is parallel with the old trail and in Lauacan the new trail crosses the old trail.
Q. State what, if anything, was on that old trail as it entered your land at the point where it approached your land?
A. There is a cut.
Q. How many cuts were on that old trail during Spanish times and when the Americans came here?

A. Two.

126 Q. State where those cuts were located in reference to the old trail?

A. At my boundary with Piraso in Lauacan and at my boundary on this side.

Q. Who removed those cuts?

A. The people took away the cuts during the American times and also they took away the papers that I put there.

Q. What papers did you put there?

A. The paper contained my notice that that land is owned by me so the Americans do not destroy or took away.

Q. Do you know when those gates were torn down and by whom?

A. Those gates were torn down when they were building the new trail and I do not know by whom because there were so many people.

Q. Do you know whether it was the people who were employed to build the road who took them down or not?

A. No; I do not know them because there were so many of them, so many people.

Q. Did you protest to the authorities about removing your gates?

A. No.

Q. Why not?

A. I only protested about the new trail they were building through it.

Q. To whom did you protest about building the new trail through it?

A. Sigñor Whitmarsh when he was Governor.

Q. State what, if anything, you did after the new trail was built in reference to re-establishing your boundary lines near the new trail.

A. When the new trail was built, I made my protest to Mr. Whitmarsh and he said to me, "We cannot do anything because that trail was built by the Government."

127 COURT: State the question again.

A. I did not do anything in reference to the boundary of my land because there was a fence of earth there.

Q. When your new gates were destroyed, at the time of the building of the new road, what if anything, prevented your cattle from getting off the land?

A. What I did, after the destruction of the gates, I took away from there the cows and I put them in another place.

Q. State whether or not before you took those cows away, you constructed anything across the new trail to keep your cattle off?

Mr. BASSETT: Objected to as leading.

COURT: Objection overruled.

A. Since the destruction of the gates I did not put anything up.

Q. How many times were your gates destroyed during the American times?

A. Only once.

Q. Were there any gates destroyed after the new road was built?

A. Before the construction of the trail my gates were destroyed—after the trail was built, no gates were destroyed.

Q. After the new road was built state whether you placed any obstruction across the road to prevent your cattle from getting out which was taken away by the American authorities?

A. I did not put anything because there were so many people who passed along the trail and I was asked not to put any obstruction because the greater part of the people who passed were Americans.

Q. When this land, which you are now attempting to register situated at Lubas, was measured at the time of Comandante
128 Bejar, did you walk around the boundaries of that land and show your boundaries to the surveyor at that time?

A. Yes; because we, ourselves, measured the land according to the order of the Spanish Governor.

Q. Now, when you were ordered to survey that land by Governor Whitmarsh, did you go around the same boundaries and show the Surveyor Razon the same boundaries you showed at the time of Bejar?

A. Yes; because the surveyor in Mr. Whitmarsh's time, he could not follow my boundaries and therefore, I, myself went with him around that land to point him out the boundary.

Q. And were the same boundaries pointed out to the American Surveyor who was employed by Mr. Clarke?

A. The same boundaries.

Q. And is that the land which you are now attempting to register?

A. Yes.

Q. State whether or not the river or creek which runs down near or at the mill, runs across a part of your land?

A. Yes; the river passes through a little part of my land down below the saw mill.

Q. Do you remember when that saw mill was built there?

A. At the time of Governor Pack.

Q. Did you protest about that mill being put there?

A. I had an intention to protest but I was afraid because the same Governor was the man who put the saw-mill there.

Recross examination.

Mr. BASSETT:

Q. You stated that the people took away the papers that you placed at the gates at the same time that they took away the gates, did you not?

A. Yes; I stated that.

129 Q. And you further stated that those papers contained a notice that you were the owner of that land did you not?

A. Yes, sir.

Q. Can you read and write?

A. No.

Q. How do you know what those papers contained then?

A. Because when that paper was made, I caused the same to be read by other people and that is what they said to me.

Q. Who made that paper?

A. The secretary of the province—Otto Shearer.
Q. Why did you post those papers?
A. Because some Americans wanted to build their houses there and already one house was built by a miner.
Q. Who told you to post the papers, if anybody?
A. Because Mr. Whitmarsh and Otto Shearer advised me to put that notice there in view of my request to them how could they do about the Americans who wanted to build their houses there.
Q. What official position do you at present hold under the Igorrote according to their own customs?
A. I have no position.
Q. What official position have you held in the past among the Igorrotes themselves according to their own customs?
A. No; I had not held position among ourselves because we only held positions when the authorities ordered us to devote our services.

Mr. HAUSSERMANN: I desire to introduce in evidence the certified copy of the record of P. E. Wagar, formerly Provincial Secretary of the Province of Benguet and *Ex-Officio* Notario Publico of Benguet,—found upon pages 8 to 16 inclusive of the record in this case.

130 Also the record of the Examiner of Titles to be found on pages 22 to 23 inclusive of the record.

Mr. BASSETT: I object to that on the ground that it is incompetent.

COURT: Objection is overruled. Provisions of Section 30, Act 496 providing for the examination of titles by an examiner of the court the mandatory provision of the law and statutes essential requirement to perfect and complete a
in order to render judgment. As such it has unquestionably been sent up to this court in addition with the record; act 496 provides that the party appealing shall cause to be sent up to the Court of First Instance such parts and portions of the record as he shall deem material. The Attorney General having sent up to this Court these documents in the record on behalf as material, the court will admit the document on the ground stated in the dicto of the court just spoken.

Mr. HAUSSERMANN: I desire to offer in evidence the plan of the property sought to be registered made by D. Picton Davies, on the 25th of May, 1893 and marked for identification by this court "Applicant's Exhibit 'A.'"

JUAN CARIÑO recalled for the purpose of cross-examination, being duly sworn, testified as follows:

Mr. BASSETT:

Q. In your examination before Judge Williams, court of Land Registration in Manila, on February 8th last, you stated that you and your brother, Mateo Cariño had applied for the adjustment of the titles to certain lands situated in this province; is that a fact?

A. Yes; I stated.

131 Q. Where did you present your application?

A. In Trinidad under the Spanish times.

Q. Who was the Governor to whom you presented your application, or the Comandante?

A. Jose Martinez, Comandante.

Q. Do you remember the year in which your application was presented?

A. I do not remember the date—I only remember that the application was presented before Comandante Martinez.

Q. Do you remember how long Jose Martinez had been Comandante of that province when you presented your application?

A. According to my estimation about one year or less.

Q. Who wrote your application?

A. Jose Madaran.

Q. Where is Jose Madaran now?

A. He died.

Q. When did he die?

A. I think about ten or fifteen years ago.

Q. Who was the Comandante of this province at the time Jose died?

A. I am not quite sure, but I think Comandante Yturrega.

Q. What did your application contain?

A. My application contained that I desire that I have a title for some of my land.

Q. Did you present with your application any other papers?

A. No.

Q. How many hectares did the land for which you petitioned a written title contain?

A. I do not know because at that time we measured our land by fathoms and decide boundaries.

132 Q. Are you not in possession of that land at present?

A. Yes; I own them at present because I am not dead.

Q. Do you know how many hectares they contain?

A. No; I do not know.

Q. How many fathoms around your land?

A. I have forgotten how many fathoms—it is a long time ago I presented the number to the Comandante and I did not take it in writing as I do not know how to write.

Q. Did you pay Comandante Martinez a fee at the time you presented your petition?

A. I paid him 20 pesos as fee.

Q. Did Mateo present his application at the same time you presented yours?

A. Yes; and some other people from Baguio.

Q. How much did Mateo pay?

A. That is what I do not know, because after giving the money I went back to Tublay.

Q. Did you receive your written title?

A. No.

Q. Do you know who wrote Mateo's petition?

A. I do not know, because they came from this place,—Baguio.
Q. At the time you presented your petition, who was present?
A. The Clerk there.
Q. Who were those clerks?
A. Emigdio Octaviano and also Toribio Valdez.
Q. And Mateo presented his petition at the same time you presented yours?
A. At the same time we presented our petitions—the hours of our return were not the same, because I went back first.

133 Redirect examination.

Mr. HAUSSERMANN:

Q. Do you know the land at Lubas which Mateo Cariño is attempting to register in this action?
A. Yes; I know, because at that time we presented our petitions he spoke to me about the plan.
Q. Is that the same land for which he applied to Martinez for a title?
A. Yes; the same land and also the land at Baguio.
Q. Do you know from whom Mateo received that land at Lubas?
A. From our parents.
Q. Do you know from whom your father received the land?
A. The father of him.
Q. Do you know the tradition of your family as to the source from which your grandfather obtained that land?

Mr. BASSETT: Object to the question as incompetent and calling for hear-say.

COURT: Objection overruled.

Mr. BASSETT: Exception.

A. I only know that that land came from my father and I have been told by hear-say that my father acquired that land from my grandfather.

CAPITAN PIRASO, re-called for the purpose of cross-examination, being duly sworn, testifies as follows:

Mr. BASSETT:

Q. Do you know the land at Lubas claimed by Mateo Cariño?
A. Yes.
Q. Do you claim land which adjoins the land claimed by Mateo?
A. Yes.
134 Q. What forms the boundary line between your land and the land of Mateo.
A. There is a fence between them.
Q. What kind of a fence?
A. Earth fence.
Q. How long is the fence between your land and the land of Mateo?
A. According to my estimation about the distance from here to the Governor's house.

Q. How long have you been in possession of the land which adjoins Mateo, which you claim?

A. Since the days of my earliest recollection my father gave to me that land.

Q. Are there fences around your land?

A. Yes.

Q. Who built those fences?

Mr. HAUSSERMANN: Objected to as incompetent, immaterial and not within the issues of this case.

COURT: Objection overruled.

A. My father built those fences and I repaired some parts of them.

Q. You testified that there was an earth fence between your land and the land of Mateo—who built that fence?

A. Bangley, Mateo's grandfather.

Q. Then your father did not build the fence between your land and Mateo's land?

A. No; the fence there has been made by Mateo's grandfather.

Q. Was that fence built before your father got possession of the land?

A. Yes; there are now some carabao inside of those fences.

135 Q. To whom do those carabao belong?

A. To me.

Q. Did you build the fence that runs parallel to the new Manila Dagupan Wagon road through your land?

A. Yes.

Q. When did you build that?

A. At the time of Mr. Whitmarsh.

Q. When you heard that Mr. Clarke had bought Mateo's land did you offer to sell him your land which adjoins Mateo's also?

Mr. HAUSSERMANN: Objected to as incompetent and immaterial.

COURT: Objection overruled.

Mr. HAUSSERMANN: Exception.

A. No; I did not offer him, notwithstanding that I heard that Mr. Clarke wanted to buy the land of Mateo Cariño.

Mr. M. A. CLARKE, being re-called for cross-examination, being duly sworn, testified as follows:

Mr. BASSETT:

Q. When did you first come to this Province, Mr. Clarke?

A. In June, 1900.

Q. Are you acquainted with the land that Mateo Cariño is trying to register?

A. Yes, sir.

Q. When did you first become acquainted with that land?

A. At the time I first came here, June, 1900.

Q. How did you happen to become acquainted that time?

A. I sent a prospector up here in January or February, 1900;

he returned to Manila and brought back some samples—the
136 man was also a farmer and he told me that it was a very fine land and a very fine country and upon his discoveries regarding gold, etc., I came up in June. On our way out, or returning from the district known as Batwan, we passed through Lauacan and he pointed out the land known as Lubas and owned by an Igorrote, as being a very desirable piece of property, he having looked it over, and I instructed him to get what information he could on it or about it—he wanted to try and home-stead a piece of land and I told him the first thing to do would be to look up, if possible, what right the Igorrote had to it or under what conditions it was.

Q. You say it was a desirable piece of land—for what?

A. That remained to be seen; it might have been for agricultural purposes or fruit.

Q. You looked at it—what did you consider it desirable for?

A. My idea was to plant fruit there.

Q. Now, Mr. Clarke, what part of the land is desirable for fruit there?

A. That is not possible to say—there are several very pretty spots there that would, in my estimation, probably grow fruit.

Q. Probably grow fruit—don't you think the other lands adjoining are more desirable for fruit—for instance, the land where the buildings of the military reservation are situated, and those table lands there?

A. I don't know that it would—it might, but the general lay of the land was very desirable and it is possible, I think, to get water on for irrigating purposes or any other purposes you want, while up on the military reservation or back this way, I don't think it is possible.

Q. How would you get any water on the level parts of that land for irrigation?

A. I believe there is a spring up near the military reserva-
137 tion or head of that creek.

A. Isn't that really the lower part of your land where the river comes—isn't it lower than the level parts of your land?

A. You don't have to have level land to grow fruit.

Q. I am talking about irrigation—isn't that spring that you refer to below the level of a greater part of your land?

A. I don't know; I didn't attempt to have it surveyed, but I believe the spring is high enough so it can be covered by water; I imported trees for that purpose.

Q. When did you import your trees?

A. I think it was in 1901—I am not positive.

Q. When did you get the option on this land, Mr. Clarke?

A. I think that was also in 1901.

Q. What time in 1901, can you state?

Mr. HAUSSERMANN: Objected to for the reason that the option referred to by the Counsel for the Government is a matter of record on file in the office of the Provincial Secretary of this province.

COURT: Objection sustained.

Q. At the time you got an option on this land, Mr. Clarke, was the Manila and Dagupan Wagon road built?

A. Yes, sir; it was started.

Q. Now the land, Mr. Clarke, that adjoins the Manila and Dagupan wagon road—what would that be useful for—on either side of the road—on the side of the hill that the road winds around?

A. The condition would develop that—whatever conditions might arise.

Q. Under ordinary conditions; without any speculation, for what would that land be used?

A. Well, I don't know—I got the land to have it and to do the best I could with it—whether for agricultural purposes or
138 not—it don't make any difference what it was.

Q. What could that land be useful for?

A. It would be useful for a great many things; either for agricultural purposes or for just as I say, whatever the conditions might arise as to the progress of the country—build houses on it if you want to—I don't see where that comes in.

Q. Could that land be cultivated—isn't it too steep for cultivation?

A. I have seen land cultivated in California with fruit trees growing on just as steep hills as that—I know a piece of property in California much steeper than that.

Q. Steeper than that?

A. Yes.

Q. Is it not a fact that that land is very rocky?

A. Not that I have seen—there are rocks at the lower part but that does not interfere with the growing of fruit at all.

Q. What do you think of that as grazing land?

A. It is al- right.

Q. Do you consider it is more valuable as grazing land than timber land?

A. I don't consider the land timber land wholly—there is some timber there but I never considered that as particularly valuable.

Q. What would you estimate to be the difference in the elevation from the road to the top of the hill that goes up toward the military reservation at the lower bridge?

A. Well, I don't know—perhaps 150 ft. or something like that.

Q. Now, from the point from the first bend in the road toward Baguio, toward the lower bridge, toward the lowest point of your land, what would you consider the elevation of the road at that point, above the lowest point of your land?

A. Take the level of the road to both places?

139 Q. From the level of the road to the first crest as you come down to the ravine down to the lowest point of your land—I mean the land of Mateo Cariño.

A. You know that varies, Mr. Bassett—200 ft. perhaps, that is my remembrance of it.

Q. Is is not a fact, Mr. Clarke that miners on two different occa-

sions attempted to locate claims upon this property which you have an option on?

A. Yes; I have heard they have—I don't know whether it is once or twice.

Q. Do you know Mr. Reavis?

A. Yes.

Q. Do you consider him a good miner?

A. I don't know.

Q. Did you know McDonald?

A. Yes.

Q. Was he an experienced miner?

A. No, sir.

Q. Now when you took your option on the land in question, did any of the adjoining owners attempt to sell you their land?

A. When some of the adjoining owners learned that Mateo had optioned or sold his land to me they also expressed, some of them, through Mateo and Sioco, their desire also to sell.

Q. Was Piraso's land offered to you?

A. That was, I think, purchased by Mr. Probasco.

Q. Did you not have an offer of that land to you?

A. Not directly.

Q. Were you not informed that you could buy that land?

A. Yes.

Q. And were not fences built for the purpose of selling that land to you?

140 Mr. HAUSSERMANN: We object to the question.

COURT: Objection sustained.

Mr. BASSETT: Exception.

Q. You are the party who is trying to register this land, are you not, Mr. Clarke?

A. Mateo is trying to register it.

Q. Are you bearing the expenses of the suit?

A. I have so far—I reckon he will share his part of it.

Redirect examination.

Mr. HAUSSERMANN:

Q. Mr. Clarke, in your estimation, state whether or not that land would be considered agricultural as distinguished from mineral land.

A. Yes, sir; it would.

Q. What American official, if any, had been through this province before you commenced to inquire in reference to the ownership of that land?

A. No one, that I know of.

Q. Had any member of the Civil Commission been up through this province to your knowledge, prior to the time that you commenced to investigate the title of this land?

A. I am positive they had not.

Q. State what, if anything, in reference to taking photographs of the vicinity of Baguio or any land around Benguet province.

A. When I came up, I brought with me as my guest a gentleman

by the name of Johnson and he took a great many photographs of all of our trip.

Q. At the time that you first arrived in Baguio and commenced to investigate the title to the piece of land that is in question in this suit, with the view of purchasing the same, had you any idea,
141 at that time, or had you heard either directly or indirectly of any purpose on the part of military authorities of the United States or Civil government to reserve any part thereof for military purposes or for the purpose of locating in this province a summer capitol?

A. I had not.

Q. What if anything, did you do, after returning to Manila from your trip in Benguet province, in reference to informing any of the Civil Government of these Islands in reference to the general lay of land, etc., in the Province of Benguet?

Mr. BASSETT: Objected to as improper re-direct examination.

COURT: Objection overruled.

A. I showed these pictures to Mr. Pepperman—I have forgotten his official position, but I think it was Assistant Secretary to the Commission, and he asked me to come over and show them to the Commission, and I told him when they invited me to do so I would; a few days later Mr. Worcester, I think it was, requested that I bring the pictures over and show them and I went over and Governor Taft, General Wright and Mr. Worcester I am sure were present. and I don't know what others—they looked the pictures over and asked me about the general temperature and conditions of Benguet.

Q. At that time had you any information, either directly or indirectly that the Civil Government or the Military authorities of the United States were contemplating reserving a portion of this province for military purposes or for the purpose of a summer capitol?

A. No, sir.

Q. When, in reference to the taking of this option, did you
142 first learn of the military authorities reserving or attempting to reserve a portion thereof for military purposes?

A. The first that I knew positively that they had laid aside, or intended to lay aside some of that land,—I sent a man to build a house on it and he was ordered off.

Q. By whom?

A. By the Lieutenant in command of the military authority.

Q. What, if anything, have you done since you learned of the purpose of the military authorities to take a portion thereof for military purposes, to prevent the authorities from carrying their plan into force and effect?

A. Done nothing.

Q. State whether or not you had any talk with the Commanding General at Manila and also with the civil Government with a view of pointing out to them other land more suitable for military purposes.

A. I learned that I had been accused, and they termed it this way—of sharp practice in having gotten information that the Gov-

ernment expected to reserve a portion of this land or make great improvements, and on this information had secured my option—I called on General Davis and related the whole history of my operations in Benguet—also on General Wade and Governor Taft, and each one of those gentlemen intimated that they had learned or heard that those fences had been constructed by Mateo Cariño after American occupation, so that he could get his title and they also intimated that I was perhaps the one who asked him to do those things and of course I told them the story in regard to my operations, and told Governor Taft that I believed the situation for military purposes was too close to the city of Baguio and if Baguio grew, it would naturally grow down the Benguet road and if the mining interests and fruit of agricultural interests should develop as we hoped
143 they would, that very soon their military reservation would be in the center of the population of the city of Baguio; that was, however, my opinion.

Mr. BASSETT: I move to strike out the entire answer as irresponsive and not responsive to the question.
COURT: Objection overruled.

Q. State whether or not you desired the military authorities to take a part of said land for military purposes.

Mr. BASSETT: Objected to as irrelevant.
COURT: Objection sustained.

Q. Is that the only talk you had with the military authorities?

Mr. BASSETT: Objected to as irrelevant.
COURT: Objection overruled.

A. Yes, sir. I had a conversation with Col. Carball, who was at one time Judge Advocate to the Philippines.
Q. When did you have a conversation with him?
A. In January.
Q. Of what year?
A. Of this year.
Q. State whether or not you had any conversation with reference to the military authorities before you learned that they had finally determined to reserve a portion of said land for military purposes in reference to getting them to abandon that purpose.
A. Yes, sir.
Q. With whom?
144 A. With General Davis.
Q. When?
A. That was about two years ago.
Q. What conversation did you have with him?
A. I asked him to not put the military reservation there—I did not want it there as far as I was concerned—there were better places.
Q. State whether or not you had any talk of such nature with the Civil Governor of these Islands.
A. With Governor Taft, yes.
Q. What, if any.

Mr. BASSETT: Objected to as irrelevant.

COURT: Objection overruled.

A. It was also intimated that I had secured that option in order to realize from the Government, and that I would be more then anxious and pleased if they did not put the reservation or any kind of a reservation——

(Witness asked permission to make an explanation.)

In reference to my conversation with General Davis he had made some statements regarding Americans in the Philippines upon information, securing options in order to get money out of the Government and that is the time that I went to call on him and explained to him thoroughly that I was very anxious that he should not put any military reservation here on this property.

Q. Have you other interests in Benguet province other than an option on this land?

A. Mining claims.

Q. It is in testimony here that Mateo Cariño applied for possessory proceeding before the Court of First Instance in Union
145 Province state whether you had anything to do, either directly or indirectly in the proceeding.

A. I had nothing to do with it whatever.

Q. State whether or not you had had any conversation with Mateo prior to the proceeding instituted in that court at San Fernando?

A. No, sir; I had not.

Q. Did anybody else for you?

A. No, sir.

Q. State whether or not, you or any person for you, either directly or indirectly in any manner, advised Mateo Cariño to take out such proceedings before the Court of First Instance in Union Province?

A. No, sir.

Q. State whether or not you or any person for you, either directly or indirectly advised or directed Mateo Cariño to place any fence around the land in question?

A. No, sir.

Q. State whether or not you had any conversation with Mateo Cariño with reference to the repairing of the fences around said land.

Mr. BASSETT: Objected to as irrelevant.

COURT: Objection sustained.

Recross-examination.

Mr. BASSETT:

Q. When was General Bell in this province, do you know?

A. I remember he was up here but I can't tell you when.

Q. Before or after you came?

A. After I came.

146 Q. How long?

A. I should say a year.

Q. Where was General Davis at the time you had a general conversation with him?

A. In his office at Manila.
Q. At that time what was his official position?
A. Commander General of the Philippines.
Q. You say that was two years ago?
A. It seems to me about that.

YGMEDIO OCTAVIANO, being duly sworn, testified as follows:

Mr. HAUSSERMANN:

Q. What is your name?
A. Ygmedio Octaviano.
Q. What is your age?
A. Fifty-three years, nine months.
Q. Where do you live?
A. In Baguio.
Q. What official position, if any, do you now occupy?
A. Provincial Secretary of the Province of Benguet.
Q. How long have you lived in Benguet province?
A. During 27 years of my residence in this province, I have been out one year and a half.
Q. What official position, if any, did you occupy during the time of the Spanish Government?
A. Since 1876 to 1881 I have been the Clerk and at the same time, Secretary—and from '81 to '90, I was an official interpreter of the military commander of Spain of the province of Benguet.
Q. Since '90?
A. I was Justice of Benguet till 1893 and until 1898 I was
147 Professor or instructor in the Igorrote school at Daklar in the province of Benguet.
Q. Do you know the applicant, Mateo Cariño?
A. Very well.
Q. Did you know his father during his life time?
A. He was my very intimate friend.
Q. Do you know when the father of Mateo Cariño died?
A. Yes.
Q. What year?
A. I am not sure, but he died at the time of the Commander Billena who served from March '81 to '85 or '86.
Q. Do you remember the Royal Order of Christina dated February 13th, 1894, in reference to the inhabitants of these Islands applying for written title to their lands?
A. I remember it very well.
Q. Do you know whether or not the Igorrotes of this province attempted to obtain written titles to their property in pursuance of said Royal Order?
A. Perfectly.
Q. State whether or not many of the inhabitants of this province made application after the publication of that Order for written title to their lands.
A. Several of them, not only the people from Benguet, but also the people from surrounding pueblos presented their petitions during the time of Comandante Billena.

Q. Do you know whether or not any of them applied during the time of Jose Martinez?

A. I do not know.

Q. Were you the Government official during the time of Jose Martinez?

148 A. No; at the last part of his time, before his return, I was appointed Secretary in that time since '93.

Q. Were you here during the time of Bejar?

A. In Daklan.

Q. What were the results—if you know—of the applications which the people of this province made for their title to their lands as testified by you?

Mr. BASSETT: I object to that, your Honor, on the ground that the result is a matter of record and this it not competent evidence.

COURT: Objection overruled.

Mr. BASSETT: Exception.

A. These applications were sent to the proper authorities and after some years, by direction of the Director of the Administration Civil, or the Intendencia at Manila, they were returned to the parties who made the application with the request to state whether they insisted upon their petitions—some of them insisted upon their application and several of them withdrew—and furthermore, the others, who did not present their applications, could at that time.

Q. How do you know that they could present them—those that failed—what do you mean?

A. That those who did not present their applications, they could, if they desired to present theirs at that time.

Q. Who told them that they could present them at that time?

A. I am not quite sure, but I think in accordance with the regulations in force concerning public lands and the Royal Order, and for that purpose it was published according to the instructions, and the Spanish Government in consideration of the status of the

149 people here being Igorrotes, extended the time for some period, to a certain time, which I do not remember.

Q. Do you know the land at Lubas, Mateo's land, which was occupied by him during the Spanish times?

A. No.

Q. Don't you know the land at Lubas, Mateo's land?

A. No, in that time I did not know.

Q. Did you know it at any time?

A. During the present time only, that is, during the time of the occupation of the Americans.

Cross-examination.

Mr. BASSETT:

Q. Who was the Comandante who notified the people of this province that the Government had extended the time in which they could present their application for the composition of their lands?

A. If I am not mistaken, it was Comandante Billena and Martinez.

Q. Did you know or did you hear of such order after you left Baguio or Trinidad to go out as a school teacher?

A. No, I did not. I did not hear anything more about it—that was in the year 1893.

Q. Did you tell Mateo Cariño at any time after the time of Comandante Jose Martinez, that it was not necessary for him to secure a paper title under the decree of February, 1904?

A. I do not remember such interpretation at that time—I was not with Martinez because then I was in that land as teacher at Daclan. At no time of Martinez I was employed by him, and went as a teacher in that land from November 23rd, '93.

Q. Were you in the office of Don Jose Martinez, in the year 1894 when Mateo Cariño, Juan Cariño and other Igorrotes presented petitions for composition of their lands?

150 A. No; I think I could possibly have been in the office of Martinez without the knowledge, but I was not employed and had no motive of knowing.

Q. You were not employed by Martinez or in the office of Martinez at that time?

A. Never.

Q. Do you know the land that is now being claimed by Mateo Cariño in Lubas?

A. Now, yes; I know by reference but before, no.

Q. You were on that land, were you not, last week?

A. Yes; it is true.

Q. Do you know what use the land that you visited last week, was put to in Spanish times?

Mr. HAUSSERMANN: Objected to as not proper cross-examination.

COURT: Objection overruled.

Mr. HAUSSERMANN: Exception.

A. No.

Q. When you were on the land last week your attention was called to the condition of a sod or earthen fence, was it not?

Mr. HAUSSERMANN: Objected to as not proper cross-examination.

COURT: Objection sustained.

Mr. BASSETT: Exception.

The Counsel is informed that the question on which the Court has ruled as being improper cross-examination, is admissible at such time in the proceedings in this case as Counsel for the Philippine and United States Government elects to make this witness their own witness.

151 Applicant rests his case.

IGMEDIO OCTAVIANO being recall- on behalf of the Government of the United States and Philippine Islands.

Mr. BASSETT:

Q. Was your attention called to an earthen fence pointed out by Sioco, son of Mateo, on last week, as the boundary of his Father's land?

A. Yes.

Q. What condition was that fence in?
A. I am not sure, but I think the condition of that fence was like the old fence of those times, and during Spanish Government, each town had a public common, but I do not know whether this was the exclusive property of Mateo or not.
Q. The question I asked was, what was the condition with reference to whether it had been recently constructed or not.
A. My judgment is, that it was old, notwithstanding there are some new repairs—I did not see very well.
Q. How many years old would you estimate that fence to be?
A. To my judgment I should thing about ten or less or more years but it is difficult for me to estimate the age of the fence because the nature of the land there is different from what it is in Trinidad.

Cross-examination.

Mr. HAUSSERMANN:

Q. At whose invitation did you go to that land?
A. At Sigñor Worcester's for the purpose of acting as interpreter in case of necessity.

152 IGORROTE BAYENG, being duly sworn, testified, as follows:

Mr. BASSETT:

Q. What is your name?
A. Bayeng.
Q. Where do you live?
A. Lauacan.
Q. Do you know where Mr. Wagner's saw-mill is situated?
A. Yes.
Q. Do you know who is the owner of the land on which that mill is situated?

Mr. HAUSSERMANN: Objected to as incompetent, irrelevant and immaterial.
COURT: Objection overruled.
HAUSSERMANN: Exception.

A. Capitan Mateo owns the land which is at this side of the saw-mill and the other side of the saw mill is mine.
Q. What is the boundary between your land and the land of Mateo?
A. The river.
Q. What river?
A. Lubas.
Q. How far does your land run toward the new Manila & Dagupan road along the Lubas from the mill?

Mr. HAUSSERMANN: Objected to for the reason that the usual notices were published as required by the statute, and in the court below a default was entered into against everybody, except the Government of the United States and military authorities.

COURT: Objection overruled.
153 Mr. HAUSSERMANN: Exception.

A. It is near.

(Exhibit "A.")

Q. This is the wagon road—this is a bridge across Lubas river this is the Lubas river, and this is the mill—now, how far along this river does your land extend?

A. It is near to the road.

Q. I show you here (Exhibit "A") a rough sketch, showing the Manila & Dagupan wagon road—the Lubas river and Wagner's saw-mill, and ask you to indicate on the sketch how far along the river your lands extends?

Mr. HAUSSERMANN: It is better that we go and inspect it.

COURT: Are you able to so understand that map as to mark the place where your land ends—can you do it?

—. ——.

COURT: It appears to the Court that the map is perfectly unintelligible to the witness and none of its explanation is understood by him.

Q. This that I am now pointing out is the road (running pencil along mark intended as the road).

A. I understand the road now.

Q. This is the Lubas river (indicating the line intended for the Lubas river).

A. Yes.

Q. This is the bridge at the road across the Lubas river (indicating the point intended for the bridge).

A. My property extends from "A" (on map) to "B."

COURT: The interpreter, under direction of the witness, and at the places indicated by the witness marks two crosses on the line representing Lubas river, which counsel marked "A" and "B" respectively.

154 Q. Who built the earth fence near the saw mill?

A. The fence near the Lubas river was built by my grandfather who gave to my father and from my father I get it.

Q. Did you ever cultivate the land along the river?

A. Yes; I cultivated it for garbi and sweet potatoes.

Q. How long has it been since you cultivated it last?

A. 3 years ago.

Q. Did anybody other than you cultivate the land on the same side of the Lubas river that you cultivated your land on?

A. Only me and my brother cultivated that land.

Q. You said the land on the opposite side of the river belonged to Mateo Cariño?

A. Yes.

Q. From whom, if you know, did Mateo get that land?

A. Mateo Cariño inherited that land from his father.

Q. To whom did that land belong before Mateo inherited it from his father?

A. I do not know of my own knowledge—I have been told that it was inherited my Mateo Cariño from the father of his father.

Q. Do you know the father of the wife of Mateo Cariño?

A. Yes; I know.

Q. Did he ever live on the land that adjoins your land?

A. Yes; he lived there.

COURT: What was that man's name?

A. Dangbis.

Q. Did you ever hear that he was the owner of that land?

A. From my earliest recollection I have heard people say that he was the owner of that land.

Q. How did Mateo become owner of the land?

A. Yes; because Mateo Cariño is married to the daughter of Dangbis.

155 Q. From whom did Dangbis get the land?

A. I only know that Dangbis was the owner of that because I was a little boy when I first know that land.

Cross-examination.

Mr. HAUSSERMANN:

Q. Do you know where Mateo lives now?

A. Yes, I know.

Q. Isn't it a fact that the land on which Mateo lives now he inherited through his wife or his father-in-law?

A. Yes.

Q. Isn't that the land that you had in mind when you said Mateo inherited that land from his father-in-law?

A. Yes.

Re-direct examination.

Mr. BASSETT:

Q. Did not Mateo inherit the land on the opposite side of the Lubas river from your land from his father-in-law also?

A. Yes.

Recross-examination.

Mr. HAUSSERMANN:

Q. Who do you work for?

A. We work for ourselves.

Q. Have you been doing any work for Mr. Wagner?

A. Yes.

Q. Did not Mr. Wagner employ you to find evidence in this case against Mateo Cariño?

A. No.

Q. Aren't you a secret service man?

156 A. No.

Q. Is Mr. Wagner paying you money for the use of the ground on which the mill is located?

A. No.

Q. Who told you to come here to testify?
A. Sigñor Wagner sent me here.
Q. Tell the judge what Mr. Wagner told you to tell here.
A. He did not tell me anything.
Q. Didn't Mr. Wagner tell you to come here and tell the Judge that Mateo Cariño got that land at Lubas from his wife's father?
A. No.
Q. Do you know Wagner's housekeeper?
A. Yes, I do.
Q. Did she tell you what to testify to here?
A. No.
Q. Who told you that Mateo got this land at Lubas from his father-in-law?
A. Nobody told me that, but I know it.
Q. Isn't it a fact, that for a period of time, during the Spanish times, that Mateo's father-in-law was living on that land and helping Mateo to take care of it?
A. Yes; he lived there, because he planted sweet potatoes and garbi.

COURT: Now then witness, the Court wants to know from you—you have testified very clearly that the people said that Mateo Cariño inherited this land from his father's father—you have also said that the people here said that Mateo Cariño inherited this land from his wife's father—which one of your stories is true?
A. The truth is that Mateo Cariño inherited that land from his father.

157 COURT: You have told two stories as to who Mateo inherited this land from—one was that he inherited it from his wife's father and the other from his father's father—which one of the stories is true?
A. He inherited it from his wife's father.

Mr. GEORGE HAYWARD being first duly sworn, testified as follows:

Mr. BASSETT:

Q. What is your name?
A. George H. Hayward.
Q. How old are you?
A. 34 years.
Q. Where do you live?
A. Baguio.
Q. How long have you lived in Baguio?
A. Since last August.
Q. What is your business?
A. Civil Engineer.
Q. How long have you been a Civil Engineer?
A. Seventeen years.
Q. Where have you worked in those 17 years at your profession?
A. Boston—Maine—Brookline—New York—Holyoke—and various other places around the country.
Q. Has your work been field work?

A. Field work and office.
Q. Did you learn your profession in the field or at school?
A. Mathematics at school and naturally got to gain experience as Engineer in field.
Q. You studied at a school?
A. Yes, sir.
COURT: Are you a graduate?
158 A. Yes, in the scientific department at Andover.
Q. Are you acquainted with the land that is described in the petition filed by Mateo Cariño for registration of certain property?
A. I am.
Q. Have you been over that land with surveying instruments?
A. I have.
Q. Where is that land located Mr. Hayward?
A. It is located about two miles south-east of Baguio and is what I would call the lower end of Baguio next to the northern boundary of Lauacan.
Q. Have you been around the entire boundary?
A. I have.
Q. Who pointed out the boundary of this land to you?
A. Sioco Cariño.
Q. At the time he pointed it out did he indicate the stations from which the Surveyor Davies had run his lines?
A. He showed me the stations on which he set up the instrument and also pointed out to me what he considered the boundaries of the property.
Q. Have you made a sketch of that land?
A. I have.
Q. Where is it?
A. I have it here.

(Map is produced and marked Defendant's Exhibit "B" for identification.)

Q. You haven't marked any stations?
A. It is merely a sketch showing the country by which different points may be located and recognized.
Q. What, Mr. Hayward, do the blue lines on this map represent?
A. They call them rivers around here—they are about the size of creeks.
159 Q. What do the red lines indicate?
A. The red line is the survey line.
Q. As pointed out to you?
A. As pointed out to me—and the one as near as I can go from what I was informed is the one described in the petition; there are no points on the ground whatever to survey from—all I could do was to take what Sioco pointed out to me on which we set up the instrument, and that was the best I could do and followed it around to get the location of what was surveyed.

COURT:

Q. There were no corner monuments?

A. No; not one; no points to mark Cariño's boundary around there.

COURT: No land marks?

A. Not one, with the exception of here and there which I can explain the reason of.

Q. What do the green marks indicate?

A. Green represents sod fences and to save questions and time I might say that green represents sod fence, that broken black line represents stone fence and the line of black dots represents the barbed wire fence.

Q. The road that runs through the land is the Manila and Dagupan road is it not?

A. Yes; Baguio & Dagupan road is correct.

Q. Do you know the name of the river which runs by the sawmill?

A. It is recognized as the Lubas river, beginning just up in beyond that road running through there is really the head of the Lubas river—it is a branch of the Bud river.

COURT:

Q. How large a stream is the Lubas river?

A. You can step across it except when there is a heavy shower—we get across back and forth many times; in fact, all the rivers are that way around here.

Q. At points other than those marked sod fence, stone
160 fence and barbed wire fence, are there any indications or any monuments to mark the boundary of the land?

A. There are none.

Q. If title should be registered to the land as pointed out to you by Sioco, would the person getting the title registered acquire the land due south of the buildings on the military reservation that are not bounded by the stream indicated on your map, first stream south of the buildings on the military reservation?

A. He undoubtedly would.

Q. If a person should register the title to property as indicated by Sioco and as described in the petition in this case, by lines and as property is described as you know, would he have title to property due east of the buildings of the military reservation other than that enclosed in the sod fence which runs there?

A. He would.

Q. If a person should register a title to the property described in the petition in this case and as pointed out to you by Sioco, son of Mateo, as being property of Mateo due north-east of the buildings on the military reservation, and if the boundary of his property is the Ipit river at that point, would he register property other than the property bounded by the Ipit river?

A. Yes.

Q. Mr. Hayward, is the Ipit river the boundary on the east to the lands pointed out to you and described in the petition?

A. No; it is not.

Q. How far is the boundary from the Ipit river?

A. Nearly 2000 feet; all of that or more.

COURT: Is there any water course or dry run which forms a boundary of this land on its east side?

A. There is a dry run only a short ways on the Bud river side and not in the Ipit river side. As a matter of information I
161 might tell the Court that it is going to be very hard for anybody to reproduce or run out lines for the land they seek to measure is so rough; it is almost impossible to measure it with any degree of accuracy up here.

Q. Do the boundaries described in the petition and pointed out to you by Sioco running southwest from the point on the Baguio Dagupan road nearest to Baguio follow the stream indicated on this map known as the Lubas river?

A. No; nothing is said of the Lubas river in it.

Q. If then, a person should register his title to property which is bounded by the Lubas river at that point, would he gain title to any property that he was not entitled to?

A. If the Lubas river is taken as a boundary and this line was registered, he would both gain and lose because it crosses and recrosses.

Q. Now Mr. Hayward, going due north from the point on the Baguio Dagupan road just indicated, point of Davies's beginning, is the boundary there described the stream, the Lubas river, as indicated on your map?

A. No; that stream is not mentioned in that description at all and he runs on distances and bearings and not having mentioned it, a man running out lines now would be confined to those points which would be indefinite and very likely the stream was what they intended but that description is in such form that it could not be known.

COURT: Mr. Hayward, the basis of this survey as described in the petition assuming that the petition was taken from the survey, with the point of beginning on the Baguio Dagupan road at a point near the bridge crossing the Lubas river, the entire description is based upon a survey by direct lines for its beginning and bounds and points on the compass—is that a fact?

162 A. That is the fact—the main difficulty.

Q. Now, in that description the point of beginning is a fixed and certain point?

A. No; that point was not fixed—we had difficulty in finding it—it was fixed in running 34,000 meters down from here and that is, well, I might say, ludicrous. That is not the way to fix a point—it is a sight easier to put a stake in the ground and measure two miles back—I know approximately where his point is but not exactly.

Q. Did you make a careful examination in and about the ground yourself with reference to the exact point as named by this Igorrote, to see if you could discover any past monument of any kind indicating Davies's beginning?

A. That is what I tried to do but failed, and had to postpone the examination until the Igorrote pointed out about where it was, and as an Engineer I would say he was nearly right but he had nothing to fix it by.

Q. As an expert in your profession, and based upon your knowledge and experience, state specifically what that survey is tied to?

A. Well, it is supposed to be tied to a rod here in the square but I defy any man on earth to locate this point from there.

Q. Is there a rod in the square at Baguio which is known, fixed definite, certain and easily ascertainable point?

A. It is not known to me. I have never been told of it and never knew it was here until I saw that description and I thought I knew every point in it.

Q. Have you examined this description carefully in connection with your own field work in making this survey?

A. Yes; I made them upon the same scale for comparison and I could not make mine agree with his at all.

163 Q. Then your testimony is, so far as you know, from a careful examination of the subject, the survey of Davies is not tied to any definite, fixed, certain and well known point?

A. It is not.

Q. Or monument or natural boundary?

A. It is not.

Q. What would be the proper way, Mr. Hayward, to describe the boundary of land which is bounded by a river or stream so that the boundary would be well fixed?

A. The only way to fix it without any difficulty or doubt would be to set a bound right on the back of the river where it would not be disturbed and in the description state it was along the center of the river or back, whichever it may be, to such and such a point without any reference to bearings except in a northerly or northwesterly direction, as the case may be.

Q. Is Wagner's saw-mill within the boundaries described in the petition and indicated by Sioco?

A. It is.

Q. How far within the boundary is it?

A. It is in by may be 20 or 25 feet—just inside the line.

Q. Is there anything along that boundary to indicate that it is a boundary?

A. No.

Q. Is this piece of property that has been pointed out to you enclosed?

A. In a way it is, but at a number of points it is not—you might say it is fenced about 22% of the distance around it—liberal allowance of fence making up about 22% of the perimeter.

Q. Would this property from your observations in going around the boundaries, if the 22% of the boundaries which are

164 fenced, were cattle proof, would this property be cattle proof—entire boundary be cattle proof?

A. No; it wouldn't and yet it would in one way because outside of this property at some points, there are fences which keep them from going any further.

Q. Are the streams or lines indicated as boundaries on the map by Mr. Davies and described in the petition in this case in such a condition at points other than those where fences exist, that cattle could not wander over them?

A. Cattle could get out of that piece of property always—no fences there could keep them out—they never stay inside of that place. The fences are supposed to be over here and there is one probably 100 years old which he takes as a boundary, but that is not the fence that made the property cattle proof—the fence down here made the property cattle proof—up over the hill there is a well preserved sod fence and down to the impassable cliff on this side, but that he tells me is not his line—his line is down there.

Q. The stone fence and sod fence just mentioned by you are not considered as boundaries to the land in question?

A. No; those are not the boundaries of what he claims.

COURT: How do you know?

A. Sioco showed me the point I asked him when I got down to that station—and saw that the wall turned up the hill and I asked him if that was his boundary and he said "No."

COURT: Is Sioco a claimant?

A. Sioco is the son of the claimant.

Q. How did Sioco happen to be with you at the time you made these measurements and observations?

A. Mr. Clarke sent for him and told him to show me where the points were.

165 Q. What Mr. Clarke?

A. Mr. M. A. Clarke—he told me he would send him over and show me where the points were.

Q. Now the stone fence and the sod fence which you have just spoken of—are they on the boundaries as described in the petition in this case?

A. Oh, no.

COURT: How far south of the boundary are they at the extreme point?

A. How far is that fence south of the boundary that he claims?

COURT: Yes; at the extreme point.

A. I don't quite understand.

COURT: You have testified that the sod and stone fence are south—now, I say, how far are they south at the furthe*r*est southern line?

A. Along the top of the ridge and will be a distance of about 300 yards.

Q. There is inside of that fence, is there not, another short strip of sod fence which he claimed as his boundary?

A. Yes.

Q. And from that fence where did his boundary go?

A. Runs directly down through a ravine on a line over the side of the hill and down into a gully below.

Q. To what points?

A. On three different lines it came to the bridge—to a point on south side of the bridge of the Baguio Dagupan road, this bridge being over another dry stream which drains the property.

Cross-examination.

Mr. HAUSSERMANN:

166 Q. Mr. Hayward, at whose instigation did you go on that land?

A. I was requested to by Mr. Bassett.

Q. For what purpose?

A. To run out that line, if possible, and find out the boundaries of the property claimed by Mateo.

Q. Who offered the assistance of Sioco, son of Mateo?

A. Mr. Clarke.

Q. Did he voluntarily offer the assistance?

A. I think so; we tried to find it and met him over on the land and we told him that we were unable to get it—he said he did not know himself and he would try to have Sioco out the next morning to show us.

Q. Now, did Sioco in fact, point out what he considered the boundaries of said land?

A. Yes; that is, as near as I could get at it with the Igorrote—I can get their intention—he showed me where he set the instrument up, and as we went along he pointed out where the fences were and bounds were so I got the idea. I think I got what he meant to claim.

Q. Now, if you had desired to survey the land as pointed out by him it was possible so to do, was it not?

A. Oh, I could have ascertained the area of it—there is no doubt of it.

Q. And mark the boundaries also?

A. Yes; or put bounds in so that a person could locate the property without any doubt.

COURT: You did not make a survey of the land as pointed out to you—the boundaries of which were pointed out to you by Sioco?

A. No; I simply went over and made a sketch to show the court or anybody the conditions of the thing as it stands.

Q. Now, you stated in your examination in chief, that the description of the land as surveyed and made by Mr. Davies
167 was not tied down to one known point?

A. No; it is not well located at all.

Q. The description reads as follows—"Beginning at the corner of Main St. and Emerson road a point located carefully by bearings to several prominent points and marked with a five foot iron bar driven solid into the ground, marked A as per sketch on plan—thence on a bearing of south 30 degree-, 34,646 meters to the two miles stone on the road side"—now regardless of the point of beginning hasn't he definitely fixed a point his terminal point of his line—isn't there a 2 mile post well known and located on the Baguio and Dagupan road?

A. It is not 34000 meters.

Q. Is there no more than one 2 mile post there?

A. That is all.

Q. As a Civil Engineer wouldn't you understand that the two

mile post which is on that road and well known to the community here, is the point that he referred to?

A. That is the point.

Q. Now taking that point, the two mile stone on the road side, isn't it possible for a Civil Engineer to run a line from that stone north 2*d* degrees and 50 minutes west to 52.2 meters?

A. He could within a foot or two of it.

Q. Now, regardless of this case isn't it possible for you to take this description and starting from that 2nd mile stone, run lines as described in this description?

A. It would be possible to run on all of those lines, but I would not say until it was finished whether it would enclose the piece of land or not, because I do not know about the errors in the survey.

Q. Then supposing you received an order from any person to take the two mile stone as a point beginning, isn't it possible for you to run lines as indicated in this description?

168 A. I can run lines as indicated, but I will not say that they run to the points that he shows; the magnet changes every year.

Q. That is true in all surveys?

A. Yes.

Q. For all practical purposes it is possible is it not?

A. To run lines—yes.

Q. Then, if by a decree of the court it should be decided that Mateo Cariño owned land as described in this petition, isn't it possible for a surveyor to take that description and mark out the boundaries in accordance therewith?

A. He will mark out boundaries and points—they will be somewhere.

Q. Then it results in this—as an expert—that we have a description here which it is possible to mark out by prominent monuments if we so desire, is it not?

A. Yes; you could place them by that boundary if the survey is correct—that is, if it balances around correctly it would be possible to locate monuments—if it closes you could locate points by it.

Q. Now, in addition to that, a person who pretended to know the actual physical boundaries of the land claimed by Mateo Cariño went with him around that land for the purpose of locating the boundaries of that land, did he not?

A. Yes.

Q. Then if the Government believed that the description as given by Mr. Davies was incorrect, it was possible for you to make a survey as indicated by a person, the son of the applicant who claimed to know the exact boundary?

A. Yes indeed; that is what I tried to represent in both places—what they actually did claim.

Q. The piece of land, the boundaries of which was pointed

169 out to you as being the land of Mateo Cariño by his son Sioco, is a piece of land is it not, which has well defined boundaries, either natural or that which was made by man?

A. All except a certain part of it—along the east side a fair pro-

portion has either walls made by some man or what would be considered natural boundary.

Q. You have only been in this country how long?

A. Year ago last January.

Q. Consequently you have no means of knowing in what state of repair the fences are now in comparison to the time before the Americans occupied these Islands?

A. No; only as a judge of those things I can tell in what kind of shape they are in and how long they were built.

Q. There is a wagon road called the Baguio & Dagupan road which runs through that land, is there not?

A. Yes.

Q. And the points where said road enters the land claimed by Mateo Cariño and where it leaves the land claimed by Mateo is open?

A. Oh, yes.

Q. Which of course, would permit cattle to escape from that land?

A. Yes; that wouldn't interfere in any way with the intent of the boundary—I personally could see what the boundary was intended to be.

Q. If Sioco in your judgment, made any error in pointing out what he supposed to be the boundaries as compared with what would ordinarily appear to be natural boundaries, he erred in claiming less land than would be described by the natural boundaries, did he not?

A. Hardly; I don't think Sioco made any error—he understands them thoroughly about right position, and I think he went around—you didn't put the question right if I may be allowed; what he did do, he pointed out boundaries that included less land than I would naturally have supposed Mateo to have owned. With regard to these natural boundaries we are somewhat mixed up; I would like to explain here—where the Baguio & Dagupan road leaves the southern side of this land there is an old stone wall which I thought likely to be the boundary between Mateo Cariño and Mateo Corantes of Lauacan, which runs up from the ridge to an impassable cliff on the eastern side, but the line that was pointed out to me ran up through a ravine where there is nothing to show its location except a short piece of old sod fence near the top. The natural boundary would have been up through this ravine which is a dry run and everything can pass through; the wall is probably 100 years old; cattle could roam across any part of that boundary. This is a fairly well defined fence—cattle could go around it. This old fence is not cattle proof but the cattle were prevented from going along down the ridge by another fence located some distance further south toward Lauacan. The eastern boundary from a point about 200 meters north-east of the Baguio Dagupan road is poorly defined for a distance of about 2000 meters to the point of the corner of the land located furtherest north.

Q. Referring to Exhibit "B" and the north-eastern boundaries of the land described in said plat, state whether or not there is not the remains of an old gate within the vicinity of the point indicated on said plat as a sod fence on said eastern boundary?

A. Yes; there is.

Q. Hasn't it the indications of being rather old—ancient?
A. It is a matter of 40 years old—the fence is good though—you can't knock down one of these fences.
171 Q. Are there not around there upright posts with holes in, which would indicate the remains of a gate?
A. The gate is there and in good order—the gate which was built to keep cattle from going into the Ipit river—the other ridges which they could not roam down, he did not bother to fence.
Q. From your observation of the lines of said land and from your knowledge of the customs of the Igorrotes, would the artificial work made on the various points of said lines indicate that the owner thereof attempted to make boundaries to a tract of land?
A. Why yes; I should say that that Igorrote had fairly well defined his lines except in the vicinity of the saw-mill and I do not think that he intended to go across the tops of those hills; I think that he intended that river up there to be the boundary up to about the point that that Igorrote here before testified to—nearly to that road or about to that point, as there are remains of what has likely been, years and years ago, a fence, almost washed out down to there and I think the river was intended to be the boundary and it coincides with what that Igorrote testified to.

COURT: Indicate the point that you have marked with your finger on Exhibit "B" by its bearing and distances from the initial point of that survey—approximately its distance and its bearing.

A. At a point on the Lubas river about 75 degrees west and 80 meters distant from the point of beginning.

Redirect examination.

BASSETT:

Q. In reply to the questions asked by Mr. Haussermann you stated that you did not make a survey of the land pointed out to you by Sioco and Mr. Clarke did you not?
172 A. When I say survey I mean that I did not go over it with the accuracy that I would go over it if I were going to make a map for record.
Q. Did you go over it with sufficient accuracy to determine whether the land described in the petition and plotted by Mr. Davies was the land pointed out to you as the land claimed by Mateo?
A. I think I went over it carefully enough to establish that fact.
Q. And what was the result of your investigation?

Mr. HAUSSERMANN: We object to that question for the reason that it calls for the conclusion of a witness based upon an admitted incomplete survey of the land in question.
COURT: Objection overruled.
Mr. HAUSSERMANN: Exception.

A. That the lines as put in the description and as plotted on the map do not coincide with the boundary as I think it is on the ground.

Q. Was Mr. Clarke with the party at the time you made your investigation?

A. Part of the time.

Q. Did he indicate to you the starting point as he remembered it?

A. Why yes, I believe he did but he wouldn't guarantee it until he got Sioco with us—he got Sioco to come and show me just where it was.

Q. And Mr. Clarke told you he was with D. Picton Davies at the time the survey was made?

Mr. HAUSSERMANN: Objected to as leading.

173 COURT: Objection sustained.

Q. Did Mr. Clarke or did he not tell you that he was with Mr. Davies at the time the survey was made?

Mr. HAUSSERMANN: Objected to as leading.

COURT: Objection sustained.

Q. Did Mr. Clarke say anything to you at all in reference to the survey of Mr. Davies?

A. Yes; he said he was with him at the time it was made.

Q. Did he tell you whether or not he took any part in the survey?

A. He told me he assisted in the measurement of it.

Q. Do the lines that are described in the petition and plotted on the map filed in this case correspond with the lines that were pointed out to you by Sioco on the day that you, in company with Clarke, Sioco and others made your investigation?

A. To the best of my judgment, they do not.

Q. Did you find any monument, or was any monument pointed out to you by Sioco which was put there by Mr. Davies in making his survey?

A. Yes.

Q. Where was that monument?

A. Located on the west side of the property at the point where the line turns and runs in a north easterly direction.

Q. Will you describe that point with reference to the buildings on the military reservation as shown by defendant's exhibit "B"?

A. It lies in the direction north-east from the buildings and about 20 ft. west of a large pine tree that is blazed—said pine tree is located on the top of the west bank of the brook which is the head waters of the Ipit river.

174 Q. Now, Mr. Hayward, if the Ipit river at that point is the boundary of Mateo's land would Mateo, if he should succeed in registering the title for which he has applied, acquire land other than that bounded by the Ipit river on the west?

A. He would.

Q. Mr. Hayward, if the land to the west of the Ipit river at that point belonged to the military, and if the Ipit river at that point was their place for getting water for use on the reservation, would

it be possible to get to the river without passing over land which if† would have been registered ∧ [is]* this land is registered?

Mr. HAUSSERMANN: Objected to as immaterial.
COURT: Objection sustained.
Mr. BASSETT: Exception.

Q. From the monument to which you have just referred would it be possible to run any boundary lines without including land other than land bounded on the west of the head waters of the Ipit river?

A. No.

Q. What kind of a monument is that monument?

A. It is a natural stone that they have found there that has been set in the ground and marked with a cross on the top of it. It is of irregular shape about six inches square approximately and 12 to 14 inches long and set about 5 inches in the ground—it is of the same quality as the ordinary boulders as found around this country.

Q. You observed, did you not, the Lubas river and the Ipit river in your investigation?

A. Yes.

Q. You have read the description of the land filed with the petition in this case, have you not?

A. Yes.

175 Q. You have studied *tha* map, Applicant's Exhibit "A" in this case, have you not?

A. Yes.

Q. Is it possible for the land described in that petition and plotted in that map to have as a boundary, the Lubas river on the north, head waters of the Ipit river on the west and the Lubas river near the road on the west?

A. No; because the line as run and plotted does not coincide with the courses of those rivers.

Q. Mr. Hayward, did you find any earth fences or stone fences on this land other than those shown by you on defendant's Exhibit "B"?

A. Yes; there were several other disconnected fences running across the land in different directions.

Q. Is there not one fence, which by connecting with a ravine or creek, crosses the land?

A. Not entirely clear across it; no.

Q. Where were the fences within the land that were not used as boundaries?

A. In the northern end of the land there were some short pieces of fence that was evidently made of stone, very old, and pretty well fallen down now—they are segments of circles that walls were evidently built to separate small sections of the land used for garden purposes from the larger pasture land located in the northern end

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

of the property—all within 250 meters of the northern boundary of the land and 300 meters of the western boundary, practically locating those walls in what would be the north-western corner of the property.

Q. At what other place did you find a fence?

A. At approximately 600 meters from the north-eastern end line of the property beginning at the cliff on the eastern side are
176 the remains of an old fence made both of stone and sod which runs to the west, then turns to the north and continues within about 150 meters of the western side line of the property claimed.

Q. Where is the east end of that fence located, Mr. Hayward?

A. At the edge of the cliff where the land slopes toward the Ipit river.

Q. Is there a ravine or a creek near the western end of that fence?

A. A branch of that creek—no, there is no branch there either—no, I don't think that creek is within at least 150 meters of the eastern end of that wall.

Q. Did you observe that carefully?

A. Yes; I went all over it.

Q. Is this fence, which you have just described a segment of a circle as the other fences were which you have just spoken of?

A. No; it is not—it is irregular in its direction, running first, in a westerly direction, turning them a little to the south, then turns and runs almost north; the reason that fence was built that way was, because in different parts of this land there seems to be an outcrop of the ledge and there would be a series of large stone, and whoever built the wall took advantage of those conditions to save themselves wall building by connecting those pieces of out-cropping ledge.

Q. That is the reason of great irregularity of many of those fences?

A. Yes.

Q. What is the condition of the land as to elevation due south of the fence you have just indicated?

A. The land there is sort of a saddle the water shed line between this Lubas river and the Ipit river it runs over the ridge—that is the dividing line between the water sheds, and at this point,
177 as I say, there is a saddle in the ridge.

Q. What appears to be the age of that fence?

A. That is hard to judge compared to the sod fences, but I would be willing to say it must be at least 100 years old.

Q. Is it not a fact that on your first visit to the ground that you saw this fence?

A. Yes.

Q. At that time, what did you think was the purpose of the fence?

A. Being about the only fence I had seen going up that line I thought it must be the line of the property. That point Mr. Clarke informed us was not.

Q. You spoke yesterday, Mr. Hayward about a gate on the eastern boundary—what is this cut constructed of?

A. Two posts set one each side of a gap in the sod fence—in this post three or four holes are bored in which to put the bars.

Q. Are these posts rotten?

A. No wooden post will last a generation around here—they are still standing there.

Q. You testified yesterday that they must have been 50 years old.

A. The gate was 50 years old—the fence has been there that long but the bars have actually got to be replaced from time to time.

Q. Well, these posts have not been there for 50 years have they?

A. I don't think any posts have been there for fifty years because no timber around here would stand that length of time and those posts were still standing, so naturally they must have been replaced.

Q. How long, in your estimation, Mr. Hayward, knowing the conditions of this country, the amount of rain fallen each year, and the volume of water which falls, would an earthen fence exist?

178 A. Very likely take 1000 years to wipe out all signs of it but it will exist in different states of repair an indefinite period—if it hasn't been repaired for 30 years, naturally there would be some places washed off and fallen away but how long it would stay in existence, I suppose you would find traces of it for 1000 years—it would take a long while to wipe out all the remains of such a fence—in fact, a stone wall would disappear as soon as a sod-fence, only it would fall down and gradually sink into the earth and be grown over with grass where a sod fence would collapse and it would take years and years for it to flatten out.

Q. How long, in your estimation, would it take the fences which you have said you thought must be 100 years old and one you thought was 50 years to have gotten in their present stage?

A. As I say, the 100 years of existence has put that in that condition—the reason I judge that that is 100 years old is because out of the top of it there are three pine trees that are 15 or 18 inches in diameter and naturally they have been there a long while.

Q. Is that the fence where the gate is?

A. No.

Q. We are talking about the fence where the gate is.

A. I understood that you were speaking about all of it.

Q. I am speaking about the fence which is 100 years old. I thought you said the gate where the fence was, was 100 years old.

A. No; I said that was about 50 years old.

Q. Mr. Hayward, without any repairs having been made to these fences, how long would it take them to get in their present condition?

A. It is the present condition that I judge by—that it has taken 50 years or so to put that fence in that condition—whereas, that fence must have been put there 100 years having those trees grown there. The fence at the head of the dry run on the south-

179 east side of the land I judge to be at least 100 years old because of the size of the trees that are growing out of the top of it and it has been more or less leveled to the general surface of the land—the fence that runs over a ridge that runs toward the Ipit river, said ridge located about 250 meters from the north-eastern end

of the land I think at least 50 years old, judging from its present condition and the general growth of shrubbery over and around it.

Q. And now about the fence due east of the military post?

A. The fence due east of the military post must be at least a generation old.

COURT: What do you call a generation?

A. Thirty years.

Q. So then, in your estimation, the three fences of which you have just spoken could not have been built at the same time?

A. No; I do not think they were.

Q. The long sod fence, according to your estimation due east of the military reservation must have been constructed 70 years after the fence near the head waters of the river that crosses the road?

A. No doubt it was.

Q. In your estimation, which one of these three fences would be the most beneficial or most useful in keeping cattle on the land in question?

A. Why all 3 of them keep cattle on the land at different points. The fence which would keep cattle off the land, well, of most benefit to the cattle, that is the best grazing land, would be the long fence east of the post quarters.

Q. If cattle should go over the fence near the head waters of the stream that crosses the road, it would be necessary for them to go up a steep hill, would it not?

A. No; they can go along the side of the cliff.

Q. There is a cliff there, is there not?

180 A. That old fence is on the top of the main ridge which is the dividing line between the water sheds of the Ipit and Bud river-.

Q. Now, is it not a fact, that over that water shed, toward Lauacan, in a very short distance there is an elevation of as much as 150 or 200 feet.

A. If you go over the highest point of that ridge, yes.

Q. If you should go around it, you would be on a very steep hill would you not?

A. There is a trail you go up—may be 100 feet high in going up that trail.

Q. If cattle should stray through the ground that is bounded by the short sod fence of the eastern boundary toward the northeast part of the land, is it not a fact that it would be necessary for them to go down a very steep hill?

A. Yes.

Q. Then, in your estimation, is not the long sod fence due east of the military post the most necessary fence for enclosing this land for the purpose of grazing?

A. Undoubtedly.

Q. And without that fence would this particular land be enclosed?

A. It would not be enclosed on that side.

Recross-examination.

Mr. HAUSSERMANN:

Q. Referring to the fence referred to by Counsel for the Government as being the fence most necessary to keep in cattle—isn't it a fact that on the side of the fence which is not claimed as part of Mateo's land, there is good grazing land?

A. Yes; well, no; comparatively it is, when compared to the others.

Q. Then, from your ordinary experience and judgment
181 and from habits of cattle, don't you think that that fence would be the one that the cattle would most likely take to go over?

A. Undoubtedly.

Q. Isn't that the fence that under ordinary circumstances would have to be watched more closely than others and kept in better state of repair?

A. Surely; I simply can tell how long it must have been there in the state it was found—it might have been kept in repair for years before, but at the time, it looks as if it had been there the stated number of years.

Q. And of course you have no way of telling or judging as to how many years back of the 30 years it had been placed there?

A. No; I couldn't tell that.

Q. But that which you did see must have been there at least 30 years in your judgment?

A. Yes; to get in that poor state of repair.

Q. The fence which you referred to in your examination as being in your opinion, as much as 100 years old—is that one of the fences that was pointed out as a boundary fence?

A. Yes.

Q. Is the same true to the one that you referred to as being 50 years of age?

A. Yes.

Q. Referring to the fence described by you as being irregular, within the boundaries, state whether or not that fence may have been a portion of the fence around a camote patch?

A. It may have been.

Mr. G. C. SMITH, being first duly sworn, testified as follows:

Mr. BASSETT:

182 Q. What is your name?

A. Gilbert C. Smith.

Q. Where do you live, Mr. Smith?

A. I live at the present time at Baguio on the military post which is the sub-post of Camp Wallace; I am a first Lieutenant in the second Cavalry.

Q. Where is this post situated?

A. This post is located—I should say Southeast of Baguio.

Q. What is your position, your official position at present, Mr. Smith?

A. At the present time I am commanding a detachment of the 12th Company, Philippine Scouts.

Q. And you are in charge of the reservation of the Post at Baguio?

A. I am, sir.

Q. Are you familiar with the boundaries of the military reservation at Baguio?

A. I am, sir.

Q. Are you familiar with the boundaries of the land claimed by Mateo Cariño in this action and plotted in the plaintiff's Exhibit "A"?

A. I will state that I am familiar with all the land as bounded by the lines of the military reservation.

Q. At what point on the Baguio & Dagupan road going from Baguio to Dagupan does the military reservation begin?

A. You mean the point going toward Lauacan do you not—the extreme point of the reservation going toward Lauacan?

Q. No; the point nearest Baguio on the Baguio & Dagupan road.

A. The corner stone of the military reservation land nearest Baguio is a short distance from the hill where it is said that they are going to build a house for the Governor—that is as near
183 as I can describe it.

Q. Do you know the distance from Baguio on the Baguio & Dagupan road to that point approximately?

A. About 700 yards.

Q. Which side of the road is the corner?

A. Left side.

Q. How far from the highway?

A. About 20 ft. from the high-way; I can describe that more fully but I thought that probably it would be understood better in that way.

Q. What is the map, Defendant's Exhibit "C" that I now show you?

A. This map was made by Henry C. Jewett, second Lieutenant, corps of Engineers, U. S. A. and it shows the boundary lines of the military reservation at or near Baguio.

Q. Have you familiarized yourself with the boundaries of this reservation at Baguio?

A. I have.

Q. Have you found the monuments that were placed there by Mr. Jewett?

A. I have found all the monuments except one—about one.

Q. What monument on the map have you been unable to find?

A. The monument I have been unable to find, on the map, is the one 2305 feet from the second monument along the Baguio & Dagupan road going toward Dagupan—southeast corner of the reservation. I have no doubt the monument is there—in fact, I know it is there although I have not found it—I am sure I can find it.

Q. Do you know the name of the river marked on this map, one?

A. I do not know the names of any rivers on this map as the names are not shown in the map.

Q. Do you know where the saw-mill that is near the Baguio & Dagupan road is located with reference to this map?

184 A. I do.

Q. Where is it?

A. It is located starting from the first monument that I speak of or that I was questioned about and going toward Dagupan you get streams†
to a bridge where two [steams]* are united—that is, they meet just before they get under this bridge—the junction of these two stream-stream†
form, I should say, another [steam]* which runs, as I said before, under the bridge and down out of the military reservation about three or four hundred yards where this stream is dammed. At that point you will find the saw-mill known as Wagner's saw-mill as I have heard it said.

Q. Now, is not the saw mill, to which you have just referred, located on the stream as shown in the defendant's Exhibit "C" marked One?

A. Yes, sir; it is.

Q. Are you familiar with the sod fence running north and south which is located a short distance east of the military post?

A. Yes; I am—this fence is just back of the stables on the reservation.

Q. On the reservation?

A. Yes, sir.

Q. Can you indicate on this map, defendant's Exhibit "C," by referring to the streams thereon marked One and Three, where that fence runs?

A. That fence runs—beginning at the northern point of the fence, it runs, as I said before, along back of the stables on the reservation taking a southerly direction and goes on down just above the point of this stream marked One on this map and runs along the left bank of that stream and finally comes right down to the stream at the point where that water is and stops at that point. I will state that there are two little rivers shown on his map
185 and if I were to sketch the fence on this map the fence would necessarily have to cross those rivers, but in reality the fence does not cross those—in other words, he has gotten these rivers there on the map which may exist at times but do not at the present time; they may exist during the rainy season but do not at the present time. I mean to convey, by what I said, that I want to show that if you were to run a fence from the northern point that I have described, down past the stable as I said before, that that fence would not cross this stream marked One on this map which goes right around the point and comes down and finally runs into the stream on left hand side.

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

Q. That is the same stream on which the saw mill is located further down, is it not?

A. I wouldn't say that it is—it might be but I wouldn't say myself that it is—as I said before, this stream joins another stream just above the bridge and that stream which is formed by the conjunction of these streams may be the stream, and it may not be.

Q. What is the nature of the land along which the eastern boundary of the reservation runs with regard to being level or hilly?

A. It is very rough, as it is on the eastern side of a divide that runs along that section of the country.

Q. Do you know where an old sod fence with trees growing out of it is located near the south-east corner of the reservation?

A. I do.

Q. Is that fence within the reservation?

A. No; that fence is not in the reservation.

Q. How far east of the reservation land would you estimate that fence to be?

A. I couldn't very well estimate that distance for the reason that I do not know where the monument dividing the reservation
186 land at that point is. I have not been able so far, to find this monument, as I stated before.

Q. If that monument is located 2305 feet due east of the monument nearest Dagupan on the Baguio & Dagupan road, in your estimation, how far would this sod fence be removed from the eastern boundary of the reservation?

A. A very short distance, as I said before, but I am not able to estimate that distance.

Q. By looking at the map and studying the contours and the rivers, are you not certain that the sod fence just referred to is very near to the boundary of the military reservation?

A. I am.

Q. Referring to defendant's exhibit "B"—can you indicate what part of the land enclosed therein is within the boundary of the military reservation?

A. All of the land in defendant's exhibit "B" is in the military reservation except the southern part and the southeastern part of the land shown on this exhibit.

Q. You referred to the south part—what do you mean?

A. I mean the southern part of the land on this exhibit.

Q. What would you take as a boundary in describing the south part—what would you take as the northern boundary of the south part?

A. The witness indicates all of that portion of the land shown upon defendant's exhibit "B" and lying north and northeast of the road marked Baguio & Dagupan road with the exception of a very small portion of what is represented as the eastern line of the tract on defendant's exhibit "B," and a segment cut off from the north end of said tract, exhibit "B," which segment is indicated by two marks made by the witness as the northern boundary of the military reservation on that portion of that land which the court directs shall be marked "X" and "Z" respectively on this map.

187 —. Where those marks are placed I will state that I cannot mark them in the places where they should be but I will mark them if the court asks me to. I will state that in my best judgment these marks, X and Z shown on this exhibit are only approximations.

Q. Have you ridden over that part of the military reservation which is included in defendant's exhibit "B"?

A. Yes; not only over that but over all of the military reservation.

Q. In your opinion, is the land shown in defendant's exhibit "B" enclosed?

A. It is not.

Q. Are there any indications that it has ever been enclosed?

A. There are a few fences here and there but I would not state that these fences have been put at these various points for the purpose of enclosing the land in this exhibit.

Q. What was your business before you went into the Army?

A. I was in the cattle business.

Q. In your opinion, if the sod fences which are indicated on defendant's exhibit "B" were all in good repair so it would be impossible for cattle to pass them, would the land shown in defendant's exhibit B be what is considered cattle proof.

Mr. HAUSSERMANN: Objected to as incompetent and immaterial.

COURT: Objection sustained.

Mr. BASSETT: Exception.

Q. How long have you been in the cattle business, Mr. Smith, before you entered the army?

A. About seven years at one time; and another off and on for a great many years.

Q. Are you familiar with the habits of cattle?

188 A. Very.

Q. In your opinion, are the fences indicated on defendant's exhibit "B" taken with the natural obstacles connecting or joining said sod fences, assuming that the artificial fencing is in a good state of repair, sufficient to turn cattle?

A. If the artificial boundaries were in the best state of repair they could not possibly turn cattle, for I, on a native pony, can ride over any part of the land—the natural boundaries in my judgment would not be such as to turn cattle.

Q. Can you state, Lieutenant, the elevation of the highest point of the reservation contained within the land bounded as shown in defendant's exhibit "B" above the point on the Baguio and Dagupan road at the monument nearest Dagupan?

Mr. HAUSSERMANN: Objected to as immaterial and not within the issues of the case and does not tend directly or indirectly to prove a title to the land.

COURT: The court admits the answering of this question and overruled the objection for the sole purpose of testing the witness's familiarity of the tract of land about which he is testifying and for no other purpose.

COURT: Witness, do you know the elevation?

A. I do not know the elevation—I know the elevation of the land embraced in the military reservation as shown by Lieutenant Jewett's map.

Q. Is your knowledge of the elevations obtained from the marks and figures of the exhibit verified by your own judgment?

A. Yes.

Q. Have you any other knowledge of it or anything else upon which to base an opinion?

189 A. I have no other; no, sir.

Q. Who is in possession of the land contained within the military reservation?

Mr. HAUSSERMANN: Objected to as calling for a conclusion.

COURT: Objection overruled.

A. The Government of the United States is in possession of the land.

Q. You live on the military reservation, do you not?

A. I do.

Q. Have you soldiers on that reservation?

A. I have fifteen soldiers.

Q. And do you make it a point to ride over the reservation to see that everything is in proper condition?

Mr. HAUSSERMANN: Objected to as leading and immaterial and incompetent.

COURT: Objection sustained.

Q. How often do you ride over the reservation, if you ride at all?

Mr. HAUSSERMANN: Objected to as immaterial.

COURT: Objection overruled. For the purpose of showing witness's familiarity with the section of the country testimony is admitted and for no other reason.

A. I ride over the reservation very often.

Q. For what purpose?

A. For the purpose of keeping squatters off the reservation and allowing no timber to be cut.

190 COURT: In pursuance of military orders?

A. Yes, sir.

Cross-examination:

Q. When did this become a military reservation?

A. I do not know, but the order of this subject will show it.

Mr. BASSETT: We object to witnes testifying from the record your Honor, because the record is the best evidence.

COURT: Objection sustained so far as relative to his testifying from the record, but the Court rules that the witness may take the record to refresh his recollection.

COURT: Do you desire to avail yourself of the privilege of taking the record or any other document for the purpose of refreshing your recollection?

A. I desire to avail myself of the oreder referred to.

COURT: Have you a copy of that order?
A. Yes, sir.
COURT: Refer to it.

Mr. BASSETT: I object to the answer as not being the best evidence since the order itself, the original order issued, is the best evidence—no evidence has been introduced showing that the original order is not available and no ground having been laid for secondary evidence.
COURT: Objection overruled.

A. I know of my own knowledge, from this order, that that became a military reservation at the time this order states that it did.

191 COURT: The answer is stricken out as not responsive to the question.

Q. Is that the only answer you can make to the question submitted to you as to the time when this land became a military reservation?
A. I have also a copy of a telegram which shows when troops first took station on this reservation.
Q. I will ask you again—can you state now, when the property described by you as a military reservation became a reservation?
A. As I stated before, I can do so by referring to this Order.
Q. Taking said Order referred to, by you, for the purpose of refreshing your recollection, can you then state when said land became a military reservation?
A. I can state when it became a military reservation from the facts contained in that order.
Q. Will you now state when that land became a military reservation?

Mr. BASSETT: Objected to because he says that he is not testifying from his own personal knowledge.
COURT: It is very clear to the Court that this witness understands the question.

A. I know from my own knowledge from this order as I stated before.
COURT: You have no other knowledge, is that a fact?
A. That is a fact, except what I stated about the copy of a certain telegram.
Q. Mr. Smith, do you know when that land was made a military reservation, and I desire a direct answer.
A. I know when that land was made a military reservation by this Order.
192 COURT: Answer the question—yes, or no*t*—that is the order of this Court.
A. Yes.
Q. When?
A. When this order was promulgated.
Q. When was the order promulgated?
A. This order is General Order No. 48 dated War Department, November 3rd, 1903.

Q. Is that when it was promulgated?
A. Yes, sir.
Q. What was the character of your experience as cattle man?
A. My experience as a cattle man was extensive and varied.
Q. What was the nature of your experience?
A. I do not understand that question.
Q. Did your experience as a cattle man confine — the killing cattle?
A. Confined to killing cattle?
Q. Yes.
A. Caring for cattle, herding cattle, rounding up cattle, contracting in the cattle business and in many other ways.
Q. Where did you have that experience?
A. In the territory of Arizona.
Q. Will you explain more fully what you mean by "herding of cattle"?
A. There are many ways of herding cattle.
Q. I am asking you what you meant when you said you herded cattle?
A. I intend to answer the question as I wish—I will finish the question my own way—I don't need anything from you—there are many ways of herding cattle—herding them in common as was expressed just now—herding them in the plains and other ways of herding.

Q. Now, will you kindly explain to the Court the ex-
193 perience that you had in herding cattle—the kind of herding that you referred to as your experience?

A. I have herded cattle from the gulf of California—in the state of Senora, Mexico to Tucson, Arizona on the S. P. Railroad where they were shipped to northern parts—that is what I mean by herding cattle.
Q. How long have you been in the Philippines?
A. This is my second tour in the Philippines.
Q. How long have you been in the Philippines this time?
A. I have been here now since the 18th of February, I think.
Q. Present year.
A. Yes, sir; our regiment came in on the Transport Kilpatrick—I have forgotten the exact date when we arrived.
Q. How long have you been in Benguet Province?
A. I have been in Benguet province since the 27th of February, I think.
Q. 1904?
A. Yes, sir; this year.
Q. And had you been in Benguet province before that time on your other tour?
A. No, sir; I had not.
Q. When you gave your opinion or judgment as to the efficacy of the fences and natural boundaries surrounding the land claimed by Mateo Cariño in turning cattle, did you base that judgment upon your experience with cattle in the United States?
A. No, sir; I did not.

Q. Upon what did you base your judgment?
A. I based my judgment upon what I knew of the cattle business.
Q. In the United States?
A. In any part of the country or world.
Q. And you had no other experience with cattle, only such
194 as you had with cattle in the United States, is that true?
A. I have had no other.

Redirect examination.

Mr. BASSETT:

Q. You have had an opportunity to observe, Mr. Smith, have you not, cattle on this province?
A. Yes, I have.
Q. Is it not a fact that cattle have been grazing over the military reservation since you came here?
A. There are ponies and carabaos grazing on the reservation.

Recross examination.

Mr. HAUSSERMANN:

Q. To whom do they belong?
A. I do not know.
Q. Is *is* a fact that carabaos and cattle are grazing upon land considered as military reservation—is that true?
A. There are not grazing there continually, but they get out odd times, when I make it my business to drive them off.

Mr. BASSETT: I would like to offer in evidence, your Honor, defendant's exhibit "B", defendant's exhibit "C" and a paper I have here marked for identification defendant's exhibit "D".

Mr. HAUSSERMANN: I object to the exhibit "D" for the reason that the same is incompetent.

Mr. BASSETT: I shall ask the privilege of taking depositions of Acting Chief of the Bureau of Archives and Acting Chief of the Bureau of Public Lands.

195 Exhibits B. & C. are admitted; exhibit D is withdrawn.

Mr. BASSETT: I offer the following motions which are now filed with the Clerk for the purpose of dismissal of this case for the reason stated in said motion, namely the fact of jurisdiction on the part of this court and the court of Land Registration to hear, try and determine the issues presented in this case.

The motion having been duly argued by Counsel, is overruled by the Court at the present time.

Mr. BASSETT: We offer the contract between Mr. Clarke and Mateo Cariño the applicant in this case, by which applicant gave to Mr. Clarke an option on the land, the registration title to which the petitioner has petitioned in this case.

I should also like to offer, your Honor, a letter which is part of the original record written to J. H. Wilson, Clerk of the Court of Land Registration and signed by Wm. F. Pack, Provincial Governor of Baguio, dated September 11th, 1903.

Mr. HAUSSERMANN: Objected to that as incompetent.

COURT: Objection sustained.

Mr. BASSETT: If your Honor please, we now want to offer in evidence the testimony taken in the court below, of Governor Wm. F. Pack found between pages 65 and 74 inclusive of the record of the Court below.

COURT: The letter just excluded by the court on the ground of its being incompetent, forming a portion of the subject matter in the examination in the court below of the witness Wm. F. Pack, the letter forming a part and being made the subject matter of examination in the testimony of Wm. F. Pack in the court below which has
now been offered by the Counsel for the Government, and no
196 objection being offered by Counsel for the applicant to the introduction of said testimony and all of it, the court now rules that the Counsel is not entitled to his objection to the introduction of the letter, he having made no objection to the competency of the testimony of thr witness Pack, and the document is admitted as a portion of William F. Pack's testimony and will be marked as an exhibit.

——: With the exception of the further testimony of Mr. Hayward and depositions that we desire to take, and renewing my request that the court visit the property in company with the attorneys and the parties in interest and the Engineer, the Government will rest its case.

All the testimony taken in the Court below on behalf of both the claimant and the government, which under the ruling providing for the use of such testimony in the Court of First Instance, subject to objections for competency, etc., is not completely introduced so far as presented in the Court of Land Registration, by both parties, with the exception of the witness Esteban Emilo found on page 46 to page 50 inclusive, which said testimony forms no part of the evidence presented and received in this court and this note is made in the record to avoid all question in reference to the admission or excludable parts or portions of the record of the court below, by this court.

Mr. HAUSSERMANN: I desire to offer in evidence the contract, agreement and deed executed by one Otto Shearer and Mr. Wood, formerly, the local manager of the Manila branch of the firm of Smith Bell & Co., conveying to the Government of the Philippine Islands, certains tracts of land within the vicinity of the land in disagreement in this action purchased in pursuant and by authority of Act No. 279 of the Civil Commission.

Mr. BASSETT: I object to the introduction of these [dees]* deeds†
197 and contracts on the ground that they are irrelevant, immaterial and incompetent to prove any issue in this case.

[*Word enclosed in brackets erased in copy.]
[†In pencil in copy.]

Mr. HAYWARD recalled for further examination.

COURT:

Q. Mr. Hayward, have you made the computations and prepared the statement or plat showing facts and figures in reference to the areas of these several surveys and other data requested by the Court?
A. Yes.
Q. Will you produce the plan?

(Witness produces plan which is handed to the reporter and marked by the order of the court for identification Exhibit "O.")

Q. You may state, Mr. Hayward, whether the facts and figures and representations made upon the map and noted thereon are correct so far as it is possible to make them so from the data in your possession.
A. Yes, that is the case—I have looked over the data, both my own and Mr. Davies's and both plans are correct as far as I can see.
Q. And the other matters thereon represented are in accordance with the conditions as you found them from personal examination and careful inspection of the entire area included in the land represented?
A. Yes, sir.
COURT to the Attorneys: Do either of you object to the admission of the plan and map that has been prepared by the request of the Court?
198 Counsel have no objection. It will be admitted as part of the evidence.
COURT: Now, gentlemen, you have the right to cross-examination upon the map if you desire, or anything represented thereon.
No question by the plaintiff.

Mr. BASSETT:

Q. You have indicated, have you not, Mr. Hayward, by the different colored lines, the relative location of the different surveys?
A. Yes.
Q. And you have made in your notes, references which show to which survey several lines refer?
A. Yes.
Q. And you have made in your notes, references which show to which survey several lines refer?
A. Yes; indicated by different colors.

The following maps and documents were admitted in evidence in the course of the above proceedings:

199 PLAINTIFF'S EXHIBIT A.

(Here follows map marked page 200.)